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ABSTRACT

The doctoral thesis, three-fourths of which consists of appendixes, describes the development and implementation of procedures to maximize the individualized instruction time of speech, hearing, and visually handicapped students in a public school itinerant special education setting in Pennsylvania. A brief review of the Education for All Handicapped Children Act (P.L. 94-142) regulations and state standards is presented. Thirty-three special education itinerant therapists and teachers, a caseload of nearly 1,700 students, personnel from 13 school districts and the intermediate unit, and parents participated in the project. Formative and summative evaluations were performed, and an ongoing monitoring system was established and operated throughout the school term. Outcomes of the project included compliance with the federal mandate, a significant increase in pupil achievement, a general acceptance of the program, a growth in cooperation, and an increase in communication and involvement between the itinerant special education personnel and parents, teachers, and other district personnel. Maximum use of available instruction time was realized. Appendixes include the federal law, the regulations, forms utilized, and detailed formative and summative evaluation information. (Author/DLS)

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DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES TO MAXIMIZE INSTRUCTIONAL TIME IN AN ITINERANT SPECIAL EDUCATION SETTING

by

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Submitted in partial fulfillment of the
requirements of the National Ed. D. Program
for Educational Leaders, Nova University.

Individual Practicum
Bucks County Cluster II
Submitted September 30, 1978

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IDENTIFIERS: Education for All Handicapped Children Act/Public Law: 94-142

ABSTRACT: Described are the development and implementation of procedures to expedite the enrollment and dismissal of speech, hearing and visually handicapped pupils in a public school itinerant special education setting. A goal of the project was compliance with the mandates of Public Law 94-142, the Education for the Handicapped Act. Another goal was the improvement of the educational programs through a restructuring of the enrollment, review, and dismissal procedures, improvement in diagnosis of problems, development of formal written individual education programs, improvement of active parent involvement in the program, and an increase in district-intermediate unit involvement with the itinerant special education programs. A brief review of Public Law 94-142, regulations, and state standards is presented. Interpretations regarding these documents provide a basic research of the literature. Added to the research are program records and the existing procedures which constitute information for the needs assessment. Implementation of the project was accomplished during the 1977-1978 school term. Thirty-three special education itinerant therapists and teachers, a caseload of nearly 1,700 pupils, personnel from 13 school districts and the intermediate unit, and parents participated in the project. Formative and summative evaluations were performed and an ongoing monitoring system was established and operated throughout the school term. Outcomes of the project included compliance with the federal mandate, a significant increase in pupil achievement, a general acceptance of the program, a growth in cooperation, and an increase in communication and involvement between the itinerant special

education personnel and parents, teachers and other district personnel. Maximum use of available instruction time was realized. The procedures have potential for application in other special education itinerant programs, and, with some alternations, classroom special education programs. Appendices include the federal law, the regulations, forms utilized, and detailed formative and summative evaluation information.

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- R. A. Green

TABLE OF CONTENTS

Page

ACKNOWLEDGEMENTS ii

LIST OF TABLES viii

LIST OF FIGURES ix

Chapter

I. INTRODUCTION 1

The Author 1

The Setting 1

The Previous Years' Program 2

The Education for All Handicapped Act, P.L. 94-142 4

The Effect of the Law in Pennsylvania 6

II. STATEMENT OF THE PROBLEM 9

Special Education Programs in Pennsylvania 9

An Analysis of the Local Problem 10

Position of the Pennsylvania Department of Education 10

Specifics of the Problem 11

III. THE OBJECTIVES 15

IV. DEVELOPMENT OF THE STRATEGY 18

Research 18

Selecting an Alternative 19

The Strategy 21

V. RESOURCES 23

General.. 23
Personnel...................................... 23
Funds.. 26
Time... 27
Agencies....................................... 27
VI. PROGRAM DESIGN............................. 29
A Centralized Control.......................... 29
Where It Begins: A Request for Screening....... 29
The Formal Referral............................ 31
The "Action Request" Concept................... 33
Duties of the Central Office: Links to Enrollment...................................... 35
Involvement with the Districts: Meshing the Gears.. 36
Timetable...................................... 40
Flowcharts..................................... 44
Planned Evaluations............................ 49
VII. IMPLEMENTATION............................ 53
Late Demands................................... 53
Results of Late Demands........................ 53
Dissemination of the Details: The Big Key to Successful Implementation................... 54
Additional Need................................ 59
VIII. THE FORMATIVE EVALUATION................. 61
Informal Evaluation: A Description............. 61
Formal Evaluation: A Description............... 62
Results of the Informal Evaluation............. 63
Results of the Formal Evaluation............... 67

Conclusions and Inferences.......................... 69

IX. IMPLEMENTATION, PART 2: THE SECOND HALF OF THE YEAR.......................... 72

Modifications for Improvement.......................... 72

X. THE SUMMATIVE EVALUATION.......................... 76

Overview.......................... 76

Measuring the Success of the Project.......................... 77

Objective 1: An increase in the dismissal rate.......................... 77

Objective 2: Legal compliance.......................... 78

Objective 3: Enrollment within 30 days.......................... 81

Objective 4: An accepted referral system. 86

Objective 5: Avenues for feedback.......................... 88

Objective 6: Provide leadership to the itinerant special education staff and achieve increased parental involvement.......................... 91

Objective 7: Transportability.......................... 92

Summary of Achievement of Practicum Objectives.......................... 93

Goal-free Evaluation.......................... 93

An Analysis of the Requests for Screening.......................... 95

Side Effects: Responses from District Personnel.......................... 97

Side Effects: Responses from Intermediate Unit Personnel.......................... 99

Side Effects: Responses from Parents.......................... 101

Summary.......................... 102

XI. INSTITUTIONALIZATION.......................... 105

XII. TRANSPORTABILITY.................................... 106

GLOSSARY.. 107

BIBLIOGRAPHY.. 111

APPENDICES

A. SPECIAL EDUCATION BASIC ORGANIZATIONAL CHART IN INTERMEDIATE UNIT 20......................... 117

B. INFORMATION REGARDING DISTRICTS IN INTERMEDIATE UNIT 20.................................. 119

C. SELECTED CORRESPONDENCE REGARDING P.L. 94-142.. 122

D. LEGAL DOCUMENTS AND DIRECTIVES....................... 127

E. SPEECH AND HEARING STAFF AGENDA, SEPTEMBER, 1977 - JUNE, 1978......................... 230

F. SPECIAL PUPIL SERVICES MEETING AGENDA (WITH DISTRICT CONTACT PERSONNEL)................... 242

G. SELECTED MEMORANDA REGARDING IMPLEMENTATION OF NEW PROCEDURES...................... 245

H. SAMPLE FORMS USED IN NEW PROCEDURES.................. 269

I. DIRECTIONS TO IMPLEMENT NEW PROCEDURES............... 316

J. POSTING OF VACANCY FOR SECOND SPEECH/ HEARING/VISION IEP IMPLEMENTOR...................... 325

K. IEP IMPLEMENTORS' CASELOAD (ASSIGNMENT) EACH COVERING APPROXIMATELY 600 SQUARE MILES.. 326

L. QUIZTIME - A MIDYEAR REVIEW FOR ITINERANT PERSONNEL, SERVED TO ACT AS A SPRINGBOARD TO STAFF DISCUSSION........................ 329

M. FORMAL PRESENTATION TO SUPERVISORY STAFF REGARDING POTENTIAL TRANSPORTABILITY OF PROCEDURES TO OTHER SPECIAL EDUCATION PROGRAMS................ 334

N. PERSONAL NOTE FROM IEP IMPLEMENTOR................... 339

O. IEP IMPLEMENTOR'S REPORTS............................ 342

P. BASIC BATTERY OF SPEECH AND LANGUAGE TESTS.................................... 346

Q. PENNSYLVANIA DEPARTMENT OF EDUCATION REGIONAL REVIEW REPORT............................ 348

R. LETTER AWARDING CONTINUED FUNDING FOR THE 1978-1979 YEAR............................ 352

S. THE FORMATIVE EVALUATION............................ 354

T. THE SUMMATIVE EVALUATION............................ 403

U. LETTERS FROM PRACTICUM OBSERVERS.................... 472

LIST OF TABLES

Table Page

1. Response to the Formative Evaluation Questionnaires.. 68
2. Comparison of Enrollment and Dismissals in the Itinerant Programs.......................... 79
3. Comparison of Days Required to Process Pupils into Itinerant Programs during Three Segments of the School Term.................. 83
4. Percentage of Pupils Enrolled within Various Time Periods................................. 84
5. Responses to the Formative and Summative Evaluation Questionnaires................ 89
6. Responses to the Summative Evaluation Questionnaires.. 90
7. A Summary of Achievement of Practicum Objectives... 94
8. Pupil Screened and Recommended for Referral - By Month................................. 96

LIST OF FIGURES

Figure Page

1. Resources to Develop the Procedures to Maximize Instructional Time in Itinerant Special Education Programs.. 24
2. Typical Enrollment Procedures........................ 50
3. Typical Review/Revision Procedures.................... 51
4. Typical Dismissal Procedures......................... 52
5. Growth in Teacher Accuracy in Judging Pupils with Speech, Hearing, or Vision Problems.. 98

Chapter I

INTRODUCTION

The Author

Robert A. Green is currently Supervisor of Special Education in Colonial Northampton Intermediate Unit Number 20, Nazareth, Pennsylvania. He is responsible for the itinerant speech, hearing and vision programs, the pre-school program, the in-home instruction program, and the class for hearing impaired pupils. In this position his duties include the establishment of program direction, development, and review consistent with the Pennsylvania Department of Education's Standards for Special Education Programs and the Intermediate Unit plan established by his superior, the Director of Special Education. He recruits, interviews, and recommends candidates for employment in the programs in his charge. He also provides in-service training, assignments, evaluations and ratings to the staff members.

The Setting

The Colonial Northampton Intermediate Unit Number 20 is one of 29 administrative educational units in Pennsylvania. It consists of the counties of Northampton, Monroe, and Pike, and covers approximately 1200 square miles in mid-eastern Pennsylvania. The population ranges from urban and suburban to resort and rural.

Within Intermediate Unit Number 20 there are 13 school districts and a total school population, as of September, 1977, of 56,292 pupils. Under Pennsylvania's design, every school district in the state is in an intermediate unit. A goal of the intermediate unit is to collect and disseminate information between the districts and the State. An intermediate unit is also authorized to provide special educational programs to districts, although each district retains the prerogative to operate its own special education program(s) as feasible. Because of the relatively low incidence of speech, hearing, and vision problems in a given school district, the nature of the specialized area, and the involvement of administrative details, most districts in Intermediate Unit Number 20 have elected to utilize the established Special Education Program of the Unit. All 13 districts participate in the program for hearing and visually limited pupils, and 11 districts participate in the speech therapy program. The remaining two districts operate their own speech therapy programs.

The Previous Years' Program

Instruction to 1,471 pupils with speech, hearing, or vision problems was provided by the itinerant special education staff of 30 professionals in 1976-1977. Twenty of these personnel were speech therapists, six were hearing therapists, and four were teachers of the visually limited.

Traditionally these programs have operated satisfactorily despite the inconvenience of the itinerancy over the 1,200 square miles. Under general authorization of the participating districts the itinerant staffs screened pupils at the request of school personnel, most commonly the teachers or nurses, or the parents of a child. As a general practice all second grade pupils were screened for speech problems. Pupils in need of speech therapy were enrolled following further evaluation and the return of a signed permission slip from their parents, allowing their enrollment in the program. Pupils with hearing or vision problems were enrolled following an evaluation and a referral form completed by the district which included pertinent information usually gathered by the school nurse. Permission slips, signed by the parents of these pupils, were also required prior to enrollment in the respective instructional program.

The staff members routinely reported their screening, evaluation, enrollment, and dismissal information to the Supervisor of Special Education. Staff members were required to have at least one significant communication with the parents of each child on the caseload by March first of each year, or documentation why there was no communication. Written behavioral objectives were required for each case. Periodically the Supervisor of Special Education or an Instructional Advisor (an assistant to the supervisor) visited each professional during an instructional session and evaluated each professional's performance. The Supervisor completed formal ratings of each staff member in compliance with the Pennsylvania School Code. Supervisor's visitations, observations, and conferences were available to staff perplexed by unique cases. This kind of program operation is perhaps typical of many programs throughout the United States. The results of the program satisfied the majority of parents, the administration of the districts, the program supervisor and his superiors, including the school board.

The Education for All Handicapped Act, P.L. 94-142

Public Law 94-142, the Education for All Handicapped Children Act was signed by President Ford on November 29, 1975.[2] This law is one in a series of amendments to the Elementary and Secondary Education Act of 1965. It provides promises for the nearly eight million handicapped children in United States and over 200,000 handicapped children in Pennsylvania for improved education.

When President Ford approved the Act, he did so reluctantly. He stated:

> Unfortunately, this bill promises more than the Federal Government can deliver and its good intentions could be thwarted by the many unwise provisions it contains. Everyone can agree with the objective stated in the title of this bill -- educating all handicapped children in our nation. The key question is whether the bill will really accomplish that objective.
>
> Even the strongest supporters of this measure know as well as I that they are falsely raising the expectations of the groups affected by claiming authorization levels which are excessive and unrealistic.
>
> Despite my strong support for full educational opportunities for our handicapped children, the fund levels proposed in this bill will simply not be possible if Federal expenditures are to be brought under control and a balanced budget achieved over the next few years.

---

[2] Public Law 94-142: Education for All Handicapped Children Act of 1975. Also see Appendix D.

There are other features of the bill which I believe to be objectionable, and which should be changed. It contains a vast array of detailed, complex and costly administrative requirements which would unnecessarily assert Federal control over traditional State and local government functions. It establishes the complex requirements under which tax dollars would be used to support administrative paperwork and not educational programs. Unfortunately, these requirements will remain in effect even though the Congress appropriates for less than the amounts contemplated in S.6.[3]

Under the law state agencies and local school districts must:

guarantee an individually designed public education program for each handicapped child, at no cost to the parents or guardians.

provide for the location, identification, and evaluation of all handicapped children.

guarantee a written Individual Education Program (IEP), developed with the parent or guardian, and, where possible, with the child.

guarantee the right to an impartial hearing for parents who are not satisfied with their child's education.

guarantee that tests and evaluations used are race and culture free, including testing in the language he knows best.

assure education in the least restrictive environment (LRE). Children should be placed with non-handicapped children wherever feasible.

develop training programs for special education and regular classroom teachers who will have handicapped children in their classes.[4]

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[3] An Analysis of P.L. 94-142 (The National Association of State Directions of Special Education, Inc., Washington, D.C., 1976), pp. 1-2.

[4] "Public Law 94-142; Education for All Handicapped Children Act," For Your Information... from NLRCP (National Learning Resource Center of Pennsylvania, King of Prussia, PA, 1976), pp. 1-2.

The Statute is very comprehensive and specific on many points, but in its complexity it was also open to a variety of interpretations. Regulations for P.L. 94-142 were slow in coming. On April 14, 1977, BEH Chief Edwin Martin declared, "The Bureau of Education for the Handicapped will shoot for July 1" as publication date for the final regulations for the Education of All Handicapped Children Act.[5] Later, a statement was issued by the HEW Office of General Counsel. It indicated that "Final regulations should be out no later than August 14, (1977)."[6]

The Effect of the Law in Pennsylvania

States were expected to be in compliance with the Law and, subsequently, local educational agencies (districts and intermediate units) were expected to comply with their state's general plan. This, too, created problems. Sharp criticisms were issued in this regard, as in the Senate sub-committee hearings regarding what, if anything, should be changed in the Education of the Handicapped Act, Part B, as amended by P.L. 94-142. Pennsylvania's Secretary of Education Caryl Kline said that when Congress drafted P.L. 94-142, "it did not examine carefully existing state programs. As a result, Pennsylvania...faces a serious --- indeed insuperable --- problem coordinating the new Federal mandates with our previously developed system."[7]

---

[5] "BEH Hopes to Get P.L. 94-142 Final Regs OUt July 1," Education of the Handicapped (Washington, D.C.), April 27, 1977, p. 3.

[6] Report on Preschool Education (Washington, D.C.), August 16, 1977, p. 5.

What Secretary Kline implied was that Pennsylvania already had a program of special education established by State mandate. In fact, the Pennsylvania Consent Decree in 1972 (PARC vs. Kurtzman, et. al.) contains aspects of concepts and language that reappear in P.L. 94-142.[8] From the Consent Decree the Pennsylvania State Board of Education Regulations (June 30, 1975) guaranteed the right to an education of all school age exceptional children in Pennsylvania. The goal of P.L. 94-142 obviously is to assure educational provisions for handicapped children, especially in states where this had been neglected. Pennsylvania faced a challenge of re-gearing its programs, and doing so expeditiously to meet the Federal Law requirements.

The Regulations for P.L. 94-142 finally were published on August 23, 1977, in the Federal Register.[9] The deadline for providing an Individual Educational Program (IEP) was set, for Pennsylvania, as October 1, 1977, although other states had varying deadlines for IEP completion.[10]

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[7] "Educators Clash over Handicapped Education Law Amendments," Education of the Handicapped (Washington, D.C.), July 6, 1977, p. 6.

[8] PARC vs. Kurtzman, et. al. Amended Consent Decree, 22 Pa. Code §§ 11.1 et. sec., 13.4.

[9] "Final Regulations - Implementation of Part B of the Education of the Handicapped Act Federal Register", 42 (August 23, 1977). Also see Appendix D.

[10] Ibid., § 121a 342, p. 42490.

Concerns about implementation of the law began. In Pennsylvania the President of the Pennsylvania State Education Association confronted the Department of Education, declaring:

> PSEA is concerned that during the drawing up of the state's implementation plans that the organized teaching profession was not consulted and that the PSEA was not invited to recommend persons to the special education advisory panel until protests were lodged. Bureaucrats and supervisors cannot expect to draw up a lot of idealistic and perhaps impractical ideas and expect classroom teachers to carry them out.[11]

In another instance a distraught teacher expressed herself:

> "I'm looking for someone to tell me how to cope," a teacher told OE State Plan Officer Alethia Elliot. "I empathize with you," Elliot said. "You have to remember that anytime we move with something as new as this we're not going to get all the kinks worked out in one year. It's not going to be accomplished this year." [12]

The state was set for changes in special education in Pennsylvania as across the nation.

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[11] "P.L. 94-142: A Revolution," The MR Digest: A Newsletter for Professionals in Mental Retardation, III (June 14, 1977), p. 1.

[12] "More Money Needed to Meet Handicapped Ed Deadline, Teachers Say," Education of the Handicapped (Washington, D.C.), IV (March 29, 1978), p. 7.

Chapter II

STATEMENT OF THE PROBLEMS

Special Education Programs in Pennsylvania

In Intermediate Unit 20 the author analyzed the situation. Self-contained special education classes for the mentally retarded, physically handicapped, learning disabled, and hearing impaired students commonly have a small class size of eight (8) to twelve (12) students. Under P.L. 94-142 the due process procedures and Individual Education Programs (IEPs) were required during September, 1977. This involved the teacher in additional paperwork and conferences previously not required: a difficult but not an extraordinary request to make to the teacher with a small class.

In Pennsylvania, speech therapy, hearing therapy, and instruction for the visually limited have full instructional program status. This meant that, rather than providing speech therapy as a "related service", a pupil in a regular class setting must be treated as "handicapped" and be offered all the aspects of P.L. 94-142, including full procedural safeguards and an Individual Education Program. When the itinerant situation concerning speech, hearing, and vision were considered the problems became evident. While each hearing therapist and teacher of the visually limited had 9 to 15 or more pupils on a caseload, each speech therapist had a caseload of 50 to 100 pupils.

An Analysis of the Local Problem

Taken to actual application in our situation it was anticipated that 1600 to 1900 pupils would require formal Individual Educational Programs (IEPs) and each pupil being enrolled or dismissed from the program would be afforded full due process of law. The numerous tracking problems alone without aide of a computer could cause delays that could adversely affect progress of the pupils in their special instruction.

In another perspective, the itinerant programs had an enrollment nearly twice that of all the other special education classes. But while the other special education classes were self-contained, the pupils in the itinerant program were, by and large, in regular classes for their instruction. Exceptions to this were the speech or hearing therapy or instruction for the visually limited pupils who were enrolled in special education classes. Realistically, well over 500 teachers in regular education programs would have to be involved in the new process. These 500 teachers were located in 98 schools across the 1200 miles of the Intermediate Unit 20 geography. Near the close of the 1976-1977 school year the speech, hearing, and vision program personnel consisted of the Supervisor of the program, 20 speech therapists, six hearing therapists, and 4 teachers of the visually limited. Understandably, staff reaction to the new law was largely "impossible."

Position of the Pennsylvania Department of Education

Recognizing the problem across Pennsylvania, the Director of Special and Compensatory Education in the Pennsylvania Department of

Education issued a memo on June 22, 1977. In it he delcared the Department of Education's position regarding the completion dates for the IEPs.

a. For all persons who were enrolled in a special education program during 1976-1977 and are continued in a special education program during 1977-1978, IEPs must be written and implemented no later than September, 1978.

b. IEPs must be written prior to placement for all pupils who will receive a special education program after October 1, 1977.

c. For all persons enrolled initially in a special education program in September, 1977, and to be continued in a special education program during 1977-1978, IEPs must be written and implemented no later than September of 1978.[13]

The anticipated relief of delaying the mandated implementation date was short lived, however. Pennsylvania was informed by the federal government to follow the strict intepretations of the act specifically. Instructional Educational Programs for all special education pupils were required by October 1, and, further, the state standards were modified to comply with the federal law.[14]

Specifics of the Problem

At the close of the 1976-1977 school year the itinerant programs had a composite dismissal rate of 25% which included pupils in speech improvement sessions (10% of the dismissal percentage). If we were to improve our effectiveness this percentage of dismissals would be increased. By increasing the effectiveness of the programs, we could move more pupils into the program or provide those on the caseload with more intensive instruction. The result could be positive and cyclical. But how could the dismissal rate be raised especially with the new requirements involving numerous issuances of paperwork to parents?

---

[13] In a memo of June 22, 1977 entitled "Date for Completion of Individualized Educational Plans," to Intermediate Unit Executive Directors and District Superintendents, from Dr. Gary J. Makuch, Director, Bureau of Special and Compensatory Education, Department of Education, Harrisburg, Pennsylvania. (Also see Appendix C).

[14] Telex TWX Letter from Pennsylvania Department of Education, August 30, 1977. (Also see Appendix C).

An approved "Notice of Recommended Assignment," also known as a "Due Process" form, required by the State, had been issued during the 1976-1977 term, but the tracking system attempted at that time was unwieldy and inaccurate, as the details of the procedures was largely the responsibility of the staff and an acceptable feedback system was lacking. Computerization was not an available option earlier, nor in the foreseeable future.

Staff members had received the referrals, evaluated the pupils, and if the pupils were in need of special instruction, they secured the parental permission and began the instruction. The Supervisor reviewed cases routinely and felt confident that the appropriate pupils were being selected for the instruction, in accordance with the program's directions. The new law specified the use of at least two appropriate diagnostic tests to be used before determing the pupil as "handicapped." Increased diagnostic skills became another concern in addition to the tracking requirements.

Parents always had been invited and welcome to discuss the program and their child's progress in it, but no formal invitations were involved. The new law required a written invitation to the parents to attend a planning conference for the IEP development. Additional follow-up contact was to be accomplished (i.e. by telephone) if there was no parent response to the written invitation. Whether or not the parent chose to attend the IEP planning conference, the conference was to be held and the parents were to receive a copy of the IEP that was developed at the conference, and had the opportunity at that time to accept or reject the plan.

Previously pupils had been enrolled in the special education program within a week following the referral initiation. Under the new law, trying to meet the requirements with the existing program procedures would have resulted in sheer chaos. To even guess at the processing time would have been foolhardy. To realize accuracy in the tracking system would have been impossible. A referral/processing system addressing the requirements of P.L. 94-142 was needed as a first step; a system that could be acceptable to the majority of persons using it.

Parents had seemed satisfied with the existing itinerant special education programs. How would they react to the "red tape" required in the new law? Streamlining the process and gaining the parents' support would have to be important features of any new, effective system.

The existing staff had been pleased with the structure as it was, but obviously, changes...major changes would take. The staff would have to become more involved in parent conferences. Also, they would be needed to help with in-service training to the classroom teachers in the schools in their assignment.

Clearly a real problem existed. The itinerant special education programs of speech, hearing, and visually impaired pupils were out of compliance with the Pennsylvania Department of Education's new State Standards (reflecting compliance with the Federal regulations for P.L. 94-142). Could a plan that would bring these programs into compliance with the mandate also provide the benefit of greater valuable of instruction? Although more time would be spent completing paperwork and in conferences, could the value of the plan be demonstrated in pupil achievement? Could the available instructional time be maximized, by streamlining the paperwork and improving the direct instruction quality?

A plan that could meet these problems would achieve automatic institutionalization for future years and be worthy of transportability to other programs in our, and in other intermediate units.

Chapter III

THE OBJECTIVES

Objectives to the main goal of maximizing instructional time in the itinerant programs were developed. Accomplishment of these objectives would demonstrate a satisfactory solution to the stated problems of the itinerant speech, hearing, and vision progarms in Colonial Northampton Intermediate Unit Number 20. The objectives that were set were:

1. to provide a most important dimension, the increase in the dismissal rate of the 1977-1978 year by 10% over the 1976-1977 dismissal rate, utilizing the same individualized dismissal criteria for program completion.

2. to bring the special education itinerant speech, hearing, and vision programs into 100% compliance with the Pennsylvania State Department of Education Standards and the Federal Regulations of P. L. 94-142.

    a. to provide procedural safeguards and due process opportunities to the parents/guardian of each pupil recommended for enrollment in the itinerant programs. On the notice parents can indicate agreement or disagreement with the plan for the pupil. This objective will be accomplished on 100% of the pupils entering the program during the 1977-1978 school term, as measured by the data in the tracking system.

    b. to provide for the securing of a signed parental permission for evaluation prior to the administration of the evaluation instruments. This will be accomplished on 100% of the new referrals in the 1977-1978 school term, as measured through the tracking procedure.

c. to provide an evaluation consisting of not less than two diagnostic tests before the decision is reached to enroll the child in the special education program. This will be accomplished on 100% of the new referrals during the 1977-1978 school term, as measured by data reviews of the IEP Implementor, Instructional Advisor, and/or the Supervisor of Special Education.

d. to provide a written invitation to the parents/guardian and child, if capable, to participate in individual program (IEP) planning conferences for pupil in consideration. This will be accomplished on 100% of the pupils in itinerant program, during the 1977-1978 school term, as measured through the data in the tracking system.

e. to provide for program planning conferences, whether or not the parents/guardian and/or pupil are interested in participation. This will be accomplished in 100% of the pupils in itinerant programs, previous and new enrollees during the 1977-1978 school term, as measured by the data in the tracking system.

f. to provide a written copy of the IEP to the parents/guardian of each pupil enrolled in the itinerant special education program. This will be accomplished on 100% of the pupils in the itinerant programs during the 1977-1978 school terms as measured by the data of the tracking system.

3. to provide an expeditious referral system for district and special education special education staff use. Success will be accomplished when at least 90% of the pupils referred to the program are enrolled in the appropriate program within thirty (30) days of the referral, as measured through data in the tracking system.

4. to provide a referral system for district and special education staff which will be understood and accepted by the personnel using the system, as measured through a survey. Successful achievement will be attained when at least 90% of the personnel report satisfaction with it.

5. to provide avenues for feedback for parents, special education staff, and district staff to allow appropriate revisions in subsequent years (beginning 1978-1979). This will be achieved when a sampling of the aforementioned groups yield at least a 50% response.

6. to provide the itinerant special education staff with periodic in-service programs. These programs will provide:

    a. the required leadership and direction to an understanding of the program modifications and the new program goals. Achievement of a staff rating of 85% satisfaction with the leadership will constitute attainment of this objective.

    b. opportunities for an increase in therapist/teacher/parent involvement in the itinerant special education programs. Success of this objective will be achieved when a survey of itinerant staff and parents indicate a rating of at least 85% greater involvement.

7. to provide for the transportability of the program modifications and procedures to other programs in the intermediate unit and to other units in the state. Success of this objective will be attained when verbal and written reports are prepared for other potential users to achieve similar program success.

Chapter IV

DEVELOPMENT OF THE STRATEGY

Research

In order to develop a workable strategy all parameters required careful inspection. First, research of P.L. 94-142 regulations was a necessity. The Federal Register of August 23, 1977, was utilized as the basic document of the research (See Appendix D). Journals and news articles speaking to P.L. 94-142 issues were consulted. Little was mentioned in the literature regarding itinerant special education programs and the unique problems they encounter, however. The National Learning Resource Center of Pennsylvania (NLRCP) publications and personnel were consulted. The Pennsylvania Regional Resource Center/PRISE (Pennsylvania Resources and Information Center for Special Education) and the Research and Information Services for Education provided searches of the literature, including an ERIC search, a review of the Current Index of Journals in Education, and Exceptional Children Education Abstracts were utilized. (The reader may wish to consult the Bibliography for a more complete listing of sources used in the research.)

In addition to researching the literature, the author attended numerous conferences searching for ideas in anticipation of P.L. 94-142 applications. The conferences included:

- American Speech and Hearing Association Convention, Houston, Texas, November 20-23, 1976.

- Supervisors of Speech and Hearing Conference, Lancaster, Pa., March 17-19, 1977.
- Pennsylvania Speech and Hearing Association Convention, Philadelphia, Pa., April 21-23, 1977.
- State-wide In-Service for Teachers and Supervisors of the Visually Handicapped, Harrisburg, Pa., March 3-4, 1977.
- Katzenbaugh School for the Deaf, Symposium on P.L. 94-142, May 13, 1977.

The research in itself was interesting, but it provided no concrete, applicable suggestions for itinerant programs, per se. Most of the articles were proclaiming the new found rights to an education for handicapped children. Pennsylvania had this feature in its state law prior to P.L. 94-142. Leading numerous other states in the nation, Pennsylvania was pioneering the refinement of processes that were making the law a reality. No references were found that reported full application of P.L. 94-142 requirements, not to mention an itinerant setting.

Selecting an Alternative

Alternative strategies of dealing with the problem were considered. They included:

1. Meeting the mandate by continuing the existing program direction. Add the new responsibilities onto the existing staff responsibilities. Probable results: Increased paperwork and legwork by staff. Decreased staff morale from feeling that they bore responsibility for meeting all the added requirements, thus the law would be a hinderance to a high degree. Loss in

instructional time (compared to previous years) and decreased value during the time of actual instruction because of the diverse negative reactions.

2. Meeting the mandate by a slight alteration of the program direction as each step in the process develops as a need...a crisis oriented operation. Probable results: No long range planning. Reactions could range from sheer chaos to resentment in staffs, administration and parents because of a "patch upon patch" approach to the problem. Obvious lack of leadership would be demonstrated if this alternative would be selected.

3. Meeting the mandate by recognizing the revolutionary scope of it, analysing its component parts and matching each to the local system. Modification of the programs to provide a new, planned, orderly, monitored system which could be evaluated. Probable results: Increased awareness of the educational goals by staffs, administrators, and parents; appreciation of the task; unification of efforts toward an established goal; an evaluation pointing to strengths and weaknesses in the system which can be addressed and lead to additional improvements in the programs in future years. The increase of the dismissal rate and compliance with the law achieved, the programs could be a viable consideration for implementation in the other programs in the

Intermediate Unit and outside the Intermediate Unit.

Alternative 3 was the choice of this author in dealing with the identified problem and in searching for a meaningful improvement in provision of instruction in the itinerant programs.

The Strategy

The conferences attended and the research conducted, especially during the 1976-1977 school term provided valuable assets; among them lead time. The speech, hearing, and vision staffs received up-to-date preliminary information of the requirements of the law as they were announced. Staff was allowed and encouraged to grow with the new interpretations of the new law and to experience the challenges in that "anticipation year." This approach was intended as a morale and concern builder which could unify the staff for greater efficiency and effectiveness, thus the effective utilization of a valuable resource was accomplished.

Dr. Alan Abeson's comments mirrored the goal of the strategy. He described the new due process involvement as positive and contributing "to the growing awareness that the education of a child is the most important responsibility of the public schools" and as being "a fantastic public relations device for public schools."[15] Surely, if the attitudes of the staff, administration, and parents could be guided to a positive acceptance and support of the project goals, the instructional time of the staff could be maximized, although the actual time with the pupils might be reduced from the level of previous years.

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[15] Mary Y. Soeffing, "Perspectives on Due Process-- Parent, Administrator and Policy Specialist Exchange Views," Education and Training of the Mentally Retarded, X (October, 1975), pp. 204-214.

The strategy chosen would represent not mere compliance with a mandate or the completion of a routine task. Rather, it would represent a creative, an innovative approach to a problem and meet the mandates of the law in the process.

A successful outcome would be valuable as a model for other special education programs in Intermediate Unit 20, and to this end the other special education supervisors would be kept apprised of the developments throughout the year of the project. The efforts could be applied to other intermediate units in Pennsylvania and educational agencies in other parts of the country that are experiencing these similar problems. Reports of the project would be made available for persons desiring them.

Chapter V

RESOURCES

General

For a project of this magnitude to be implemented, new and existing resources were required (See Figure 1). During the 1976-1977 school year the Supervisor of Special Education was directly involved with the program personnel. A time commitment of four Instructional Advisors was utilized. These Instructional Advisors served as assistants to four supervisors of special education, and as extensions of supervision of the program supervisor, worked primarily with the teaching staff in the schools across the Intermediate Unit.

Since greater involvement and necessity for assistance was evident to accomplish the project goals and program efficiency, an additional Instructional Advisor was justified and approved for employment. However, the vacancy was not filled until mid-school year, 1977-1978.

Personnel

Under the EHA-B plan, funds were made available to states that presented their plans in compliance with the federal mandate. The state of Pennsylvania, in turn, made funds available to each intermediate unit that submitted acceptable plans to the state. Intermediate Unit 20 submitted a plan that involved an IEP Coordinator

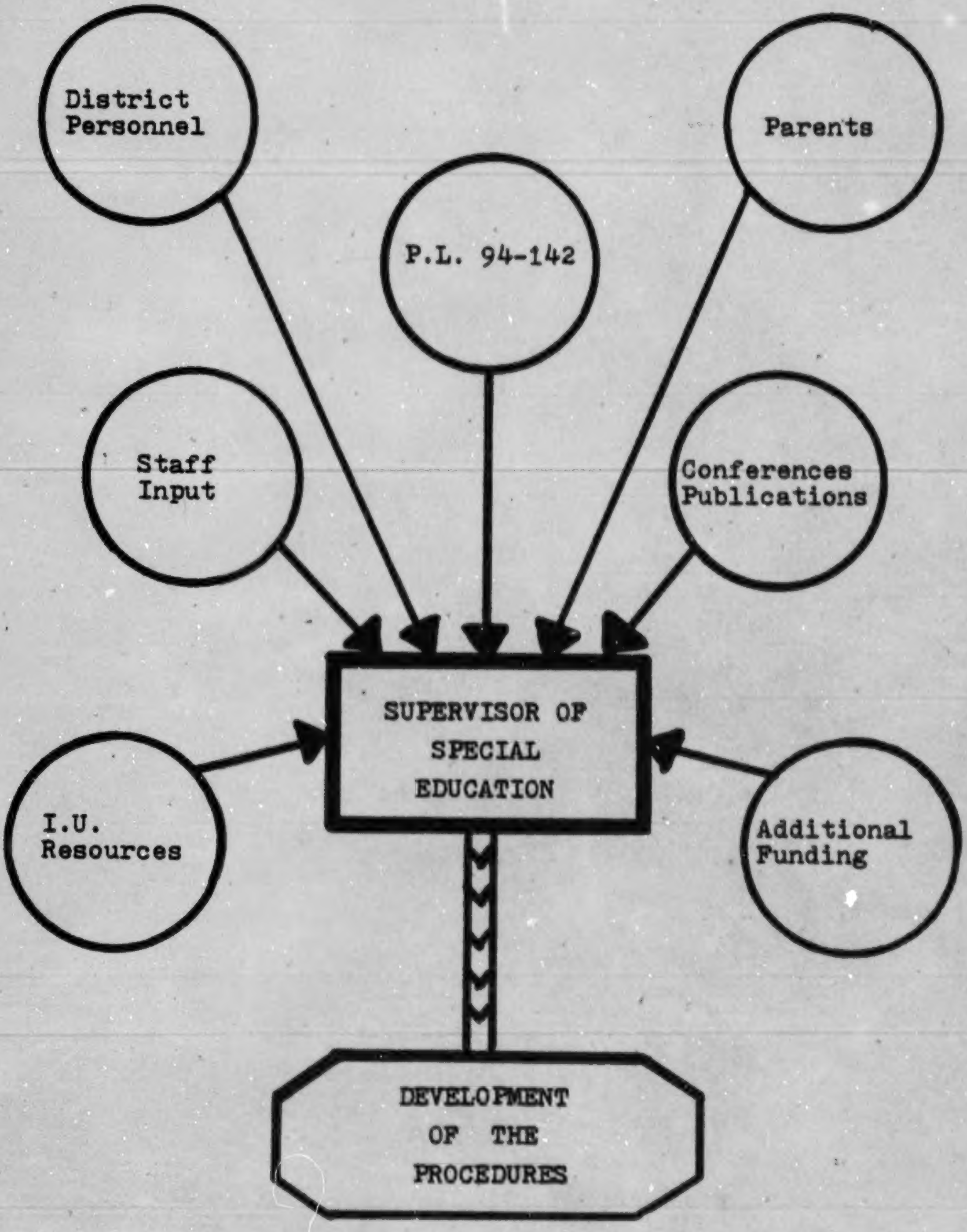
District Personnel
Parents
P.L. 94-142
Staff Input
Conferences Publications
SUPERVISOR OF SPECIAL EDUCATION
I.U. Resources
Additional Funding
DEVELOPMENT OF THE PROCEDURES

Figure 1

Resources to Develop Procedures to Maximize Instruction Time in Itinerant Special Education Programs and four IEP Implementors. Assigned to one Supervisor of Special Education, the IEP Coordinator assisted all four Supervisors of Special Education Programs to assist in the implementation of P.L. 94-142 requirements. Additionally, of the four IEP Implementors, one was assigned to the itinerant speech, hearing, and vision programs. This person assisted in the direct development of the IEPs with the itinerant staff for the potential 1700 pupils over the 1200 square miles. The remaining three implementors worked with the special education classroom teachers in developing IEPs for approximately 1000 full time pupils.

Immediately it was evident that an additional IEP Implementor for the itinerant programs was necessary, and when additional funds were announced after the start of the school term, an additional two IEP Implementors were approved. One of these two IEP Implementors was assigned to the itinerant programs (See position posting, Appendix J). One additional secretary also was made available on a part time basis to work with the processing of itinerant program pupils.

During the 1976-1977 school term the itinerant staff totaled 30 persons, divided as follows:

Speech therapists	20
Hearing therapists	6
Teachers of the visually limited	4
Total	30

For the 1977-1978 school term three additional professionals were employed by the Intermediate Unit. One speech therapist was added to provide speech therapy in a district. The district joined the Intermediate Unit Special Education Programs, rather than continuing district operated special education programs. The second additional staff member, also a speecn therapist, was assigned to provide speech therapy in a special education (classroom) facility, thus increasing the instruction available to pupils throughout the Intermediate Unit. The third additional person was a teacher of the visually limited with specialized training in teaching orientation and mobility skills to visually limited pupils. This also represented an expansion of instruction available. The itinerant program staff for 1977-1978 was as follows:

Speech therapists	22
Hearing therapists	6
Teachers of the visually limited	5
Total	33

The Supervisor of Special Education also was a resourch to the system. He coordinated the over all utilization of the other resources, assigning individuals to assignments to effect maximum resource utilization. He monitored the system and provided troubleshooting experience and corrective actions as required. Because of his more global involvement he purposely avoided in-depth involvement in the actual mechanics of the system. Rather, duties were delegated to allow him the time necessary for the exceptional, crisis situations. A further description of this will be demonstrated in Chapter VI, using the flowcharts of typical processing.

Funds

The approximate costs of the EHA-B funded staff involved in the itinerant programs are listed on the budget summary below.

Costs included salary, fringe benefits, and travel reimbursement.

1 - IEP Coordinator	-$ 18,400
2 - IEP Implementors (assigned to the itinerant programs)	33,600
1 - Secretary	6,600
Total budget for itinerant portion	-$ 58,600

Redeployment of the time of the Supervisor, Instructional Advisor, the Supervisor's secretary, and staff members involved in this project did not involve a direct budgetary increase.

Time

Approximate number of hours expended on this project:

- Supervisor of Special Education	1500 hours
- Instructional Advisor (partial year)	600 hours
- IEP Coordinator	400 hours
- IEP Implementor #1	1200 hours
- IEP Implementor #2 (partial year)	700 hours
- 33 Itinerant staff members	6600 hours
- estimated 650 regular class teachers	1000 hours
- estimated 125 special education teachers	400 hours
- parents	2200 hours
Total	14,600 hours

Agencies

The following agencies were utilized in order to develop the project within acceptable parameters. They included:

- Pennsylvania Department of Education, Harrisburg, Pa.
- CONNECT (Coordination and Outreach Network for Needs of Exceptional Children Today), Harrisburg, Pa.
- NLRCP (National Learning Resource Center of Pennsylvania), King of Prussia, Pa.

Chapter VI

PROGRAM DESIGN

A Centralized Control

A major decision in the design of the new procedure was to operate a program with centralized management control. Thus, the main tracking system and clearinghouse for each step in the procedure was accomplished and tracked in the Intermediate Unit's central office. The staff's initial feeling was that this was duplication of their efforts, involving procedures that they could do quite easily. But these tasks really involved recordkeeping, mailing and receipt of letters and notices, and tracking time periods that were allowed for responses from parents. The EHA-B funded secretary ("IEP secretary") was selected to process the many forms and track the time allowed by law for the responses. This allowed an undetermined but definite increase in time for instruction.

Where It Begins: A Request for Screening

One of the specifics of the P.L. 94-142 regulations is that written permission must be obtained from the parents of the child selected for referral. Previously evaluations were accomplished as a routine and quite informal procedure of the school process. School districts had grown to expect this natural, expeditious, and fairly informal referral procedure. The new procedure provided screening of pupils upon the written request of the teachers (See Appendix H for a sample of that form). The screening was accomplished without individual permission of the parents, but allowed by virtue of the district school boards' policies, permitting the general screening of pupils.

In September, 1977, itinerant personnel distributed the specific forms to be used to request screening for pupils that they felt might be in need of speech therapy, hearing therapy, or instruction for the visually limited. They spoke to the faculties of their assigned schools in an effort to discuss the changes and any concerns about the program changes. The forms served numerous uses:

1. The forms served as a record of pupils that a teacher was concerned about, for the itinerant's current and future reference.
2. The forms allowed formalization of the process by the requesting teacher, and provided the office with a record of screening activities.
3. The forms apprised the teacher that a discussion about each child would occur as a follow-up to the screening. This was designed as an automatic opportunity to provide in-service information to the requesting teacher. It helped the referrent to learn about speech/hearing/vision problems and provided more appropriate requests for screening in the future. It also provided an opportunity for the

itinerant to encourage the teacher to request a screening of pupils and avoid inappropriate hesitancy for future requests for screening pupils.

4. The forms were marked by the itinerant with the dates of screening and the disposition, the need or the lack of need for referral. Then the request forms were sent into the central office. There they provided the Supervisor of Special Education with:
    a. an account of itinerant screening activities.
    b. a gauge of teacher accuracy of selecting pupils with problems.

   The forms also provided information of pupils who required formal referral. A tracking sheet with the basic information of name, grade, school, and district was established and filed under "pending referrals."
5. The forms completed their circuit by returning to the itinerants for their records and for a confirmation that the pupils were being tracked in the central office.

The Formal Referral

Most pupils were screened prior to the formal referral, although screening was not a prerequisite for referral. It did reinforce the need for referral, however.

Formal referral consisted of a from with detailed information about the child's problem and school achievement. A speech referral utilized an existing form established for nearly all other referrals to the Intermediate Unit Special Education Program. This "Diagnostic and Consultative" referral form was chosen for speech referrals because it included information that gave the speech therapist a good overview of potential language and learning problems and eliminated the use of a similar, additional form. The speech referral form was completed by teachers, principals, nurses, guidance counselor, or psychologists, depending on the internal structure of the particular district, but in any case it included the signature of the superintendent of the district or his designee, who, by signing the form, confirmed the referral as that of a child in his jurisdiction, and also made him aware of each referral to the Intermediate Unit (See Appendix H for a sample of this form).

A formal "Permission to Evaluate" form also was required in order for a referral to be accepted in the Intermediate Unit. Obtaining the parents' signature on that form was established as the responsibility of the district personnel (See Appendix H for a sample of this form).

Hearing and vision referrals were made on the specific Hearing Referral form or on the Vision Referral form. Both forms were designed to request specific information appropriate to the hearing or vision concern. The Permission to Evaluate was printed on the reverse of these forms to avoid the need for an additional piece of paper. The Vision Referral also had a statement which, when signed, allowed the central office to send to the child's named vision specialist for a report of the child's vision, an attempt to minimize the time lag in gathering all appropriate report information

(See Appendix H for a sample of each of these forms).

When speech, hearing, and vision referrals arrived from the districts they were logged in on the tracking sheet from the "pending referral" file, if the pupil had been screened. If the pupil had not been screened, the secretary initiated a tracking sheet at that point. The tracking sheet, referral, and permission to evaluate then moved to the "pending with referral" file. A photocopy of the referral was routed to the Supervisor of Special Education for an inspection and assignment to the appropriate itinerant teacher/therapist. Notification was accomplished by the Supervisor's secretary making a telephone call to the appropriate itinerant teacher/therapist who then made arrangements, for mail or personal pick-up, of the referral information. The secretary also was responsible for routing a notation of the new case to the appropriate IEP Implementor who would be involved with the IEP development shortly thereafter, if the pupil was found to be in need of itinerant instruction (See Appendix H for a sample of this form).

The Action Request Concept

When an evaluation was completed an "Action Request" form was submitted to the office by the itinerant teacher/therapist. This was one of the many instances when the "Action Request" form was used. Specifically the Action Request form was a checklist and the major vehicle that served to tie the communication between the itinerant staff and the office personnel. It appeared complex at first glance, but it proved to be a valuable asset. By using just one form to signal the office to action (mailing the numerous required forms and tracking the time periods), confusion of notes or numerous forms was avoided. With most of the possibilities listed, the itinerant needed only enter the basic identification about a pupil, check the appropriate action to be taken, and send the form to the office. Both groups, itinerant staff and the office personnel, understood the form and its use. It was a major time saver.

The Action Request was used for the following purposes:

a. upon completion of the evaluation, to report the date of the evaluation, the basic outcome, and thus the step for the office to take.

b. notification of the date of the IEP Conference, the presence or absence of the parents at the conference and the next step for the office to take at that level of processing.

c. for the reviews and revision it provided similar information to a and b, above.

d. for dismissals or transfers it reported the status and the action step requested.

e. it served as a double check for the supervisor as a report of the variety of activities being accomplished in the field.

d. it served to provide information to chart the speech or delay of cases into the special education.

e. it provided the central tracking file with its data which could be compared on spot checks when in the field.

As the year progressed the Action Request underwent three revisions to improve the versatility and precision of it (Sample copies of each edition are displayed in Appendix H).

Later revisions of the Action Request form provided for the use of the same form up to four times, resulting in up to a 75% saving of paper. Having this form return to the itinerant also served as a record of completion of the action by the office.

Duties of the Central Office: Links to Faster Processing

To allow the itinerant to have as much time as possible free from paperwork and indirect instruction, the Action Request was one of the few forms needed to be completed by the itinerant. In the office, however, the necessity of the procedural safeguards were a priority. The secretary was responsible for:

a. mailing letters inviting parents to an IEP development conference (where special education was necessary).

b. tracking 10 days from posting of these letters. If no response was received, the itinerant was advised to call the parents, or visit the home to apprise them of the IEP conference.

c. sending a copy of the IEP and a due process notice (for intended enrollment into the program) to the parent.

d. tracking 10 days from the mailing date or 5 days if the due process was presented to the parents in person.

e. notifying the itinerant when each step was completed. (When the "due process" form was signed and returned, the program began.)

f. notifying the parents if the child was found non-exceptional, following the evaluation.

g. notifying the referring district when:

    1. a referral was incomplete or incorrect.
    2. the status of a pupil changed (enrollment or dismissal from a program).

h. notifying the Supervisor of any and all deviation from the prescribed procedure which was designed to handle about 95% of the cases in a routine fashion.

i. provide similar procedures for review/revision and dismissal of pupils in itinerant special education programs.

Involvement with the District: Meshing the Gears

In order to provide an expediant enrollment into itinerant programs under the new mandate certain changes had to be accomplished with district personnel. District personnel, by and large were apprised of the new law, but seemed to minimize the importance, or their involvement in it especially at the important beginning of the term. The general attitude which appeared to prevail was that the new law affected "Special Education" while they were "regular education". Since the Intermediate Unit handled the districts special education, the responsibilities were also given to the Intermediate Unit. This was not entirely true, however. In Pennsylvania the responsibility for the education of a pupil is delegated by the state to the district. It is the district which is ultimately responsible for the program and placement. The district remains integrally involved, even if the program is provided by the Intermediate Unit. A program of in-service, with formal and informal visits, meetings in the Intermediate Unit office, and written correspondence was needed to change the program direction expeditiously, within the first few weeks of the school term.

Certain design changes were made to share the responsibilities, and utilize district personnel as resources to our program (for their pupils).

Districts were asked to:	Rationale:
complete a referral form for each pupil.	- provide confirmation of formal district request - provide accountability (for both parties).
secure parental permission to evaluate.	- district contact would be more accepted and "persuasive" to parents than that of an external "agency" the intermediate unit. - time consumption. Itinerant staff should be involved with instruction, not secure

ing signatures, a task they had accomplished in previous years, albeit on a less formal basis.

The Special Education Program would:	Rationale:
Provide due process papers for all pupils in the itinerant programs in addition to IEP conference invitations, etc.	To have 13 districts burdened with hundreds of due process forms without additional staff would invite chaos. To expect districts to employ additional personnel for this purpose was unrealistic.
Provide the required LEA Representative for each itinerant IEP conference.	To have district personnel add this responsibility to their staff, would deter the process. District personnel did not have expectise desirable in particular itinerant fields. Also, reliance on them at this point put the controls in their posession. Delays at this point were unnecessary, and avoidable if special education personnel completed the tasks. District personnel were invited to join the conferences, however, for additional input.
Provide in-service to administration, principals, faculty, regarding any or all aspects of our program.	To expedite pupil process into the program where needed. Help teachers and nurses improve in their identification of special problems. Help all personnel at each step,

	understand where they fit in the total design.
Assist district personnel in the completion of the referral forms as needed	Time was well spent when the result was forms completed properly the first time.
Provide an IEP on each pupil enrolled.	Parents and district personnel each received one copy. Built awareness of the program. Helped to integrate disciplines of special and regular education and the home.
Provide tracking and status reports on all pupils-with information to districts periodically and on request.	Experience showed that districts rely on itinerant programs for the current status of those programs rather than duplicating all records.
Provide a model for district tracking should a district wish to track pupils in itinerant programs.	Model was compatable with our tracking system.
The itinerant special education program would not:	Rationale:
Screen all second grade pupils annually as had been done as a normal routine procedure in past years.	Time utilized in this type of activity be spent better in instructural use. Teachers were taught to refer appropriate cases. Request for screening was the interim step to be used as needed in cases of uncertainty of pupils for formal referral.
Provide end of the year reports.	Pupils were now on programs which were designed to have

annual review dates that were staggered throughout the year. This is a departure from concept that a program year runs concurrent with a school term, each year ending in June. Reports of individual pupil progress were always available upon request, however.

Timetable

The timetable for this project actually began in March of 1976, when some interpretations of P.L. 94-142 were only beginning to be disseminated. National and State actions and reactions were followed with keen interest. As the 1975-1976 school year closed, more serious discussions were occurring. By the middle of the 1976-1977 school year, conferences explaining the implications of P.L. 94-142 were being called. The stage was well set in the spring of 1977 following conferences and conventions attempting to deal with specifics, although proposals dealt with the full-time classes rather than the itinerant programs and then unique concerns. The total situation served, however, as an excellent needs assessment. It established the opinion firmly in this author's mind that if our project was going to capitalize upon the many aspects of the new Law we needed an innovative procedure to accomplish the goal. On the following page is a timetable designed to accomplish the goal by September, 1978.

February, 1977
- Hold meetings with staff members to discuss P.L. 94-142

March, April, May, 1977
- Gather information/implications of the law as they are made available.
- Attend conferences, workshops, etc.
- Hold monthly staff meetings to begin to "think through" P.L. 94-142 as it would apply to the itinerant programs.

June, July, 1977
- Plan actual procedures to be implemented.
- Recruit Instructional Advisor, IEP Implementor.

August, 1977
- Finalize procedure, contact district personnel.
- In-service for IEP Coordinator, IEP Implementor.

September, 1977
- In-service for teachers and therapists with two day general Intermediate Unit in-service and two day itinerant staff in-service.
- Begin processing new referrals.
- Staff to develop IEPs on new referrals.
- Staff to develop IEPs on all existing cases.

October, 1977
- Supervisor, Instructional Advisor, IEP Implementor to conference with parents.
- Supervisor, Instructional Advisor, IEP Implementor to monitor progress, and hold ½ day in-service with staff.

November, 1977
- Supervisor to develop formative evaluative materials.
- Supervisor, Instructional Advisor, IEP Implementor to monitor the procedures.
- Supervisor to hold minimum of ½ day in-service with staff.
- In-service for Instructional Advisor.

December, 1977
- Itinerant staff to review progress of at least 25% of the caseload.
- Formative evaluations to begin.
- Supervisor, Instructional Advisor, and IEP Implementor monitor progress.
- Supervisor to hold minimum of ½ day in-service with the staff.

January, 1978
- Continue formative evaluation.
- Supervisor, Instructional Advisor, IEP Implementor to monitor progress.
- Supervisor to hold minimum of ½ day in-service with the staff.

February, 1978	- Conclude formative evaluation. - Itinerant staff to review next 25% of caseload with IEPs. - Supervisor, Instructional Advisor, IEP Implementor to monitor progress. - Supervisor to hold minimum of ½ day in-service with the staff.
March, 1978	- Supervisor, Instructional Advisor, IEP Implementor to monitor progress. - Supervisor to implement any necessary changes in program which were outcomes of the formative evaluation. - Supervisor to hold minimum of ½ day in-service with the staff.
April, 1978	- Itinerant staff to review next 25% of the caseload with IEPs. - Supervisor, Instructional Advisor, IEP Implementor to monitor progress. - Supervisor to hold a minimum of ½ day in-service with the staff. - Supervisor to develop summative evaluation materials.
May, 1978	- Summative evaluations begin. - Supervisor, Instructional Advisor, IEP Implementor to monitor progress. - Supervisor to hold a minimum of ½ day in-service with the staff.
June, 1978	- Itinerant staff to review final 25% of the caseload. - Summative evaluation concludes. - Supervisor, Instructional Advisor, IEP Implementor conclude monitoring of procedure. - Supervisor to hold minimum of one day in-service with the staff. - Review all formative and summative data.
July, August, 1978	- Draw conclusions from evaluative data. - Revise procedure as necessary. - Write practicum report.

One of the objectives of this project was to maximize instructional time by minimizing the time required to process pupils into the program (and out of the program). It was not unreasonable to believe that most pupils could be enrolled within a 30 calendar day period if a carefully managed system was operated. Cases in which the procurement of reports from external agenices was necessary certainly would extend the time beyond the 30 day goal. Likewise, parents who did not return their forms for the I.E.P. conference and the due process notices automatically used 20 days of the 30 day goal. Holidays, pupil or staff absences, or deviations in the school calendar could also contribute to a delay.

The following timeline was felt to be appropriate and was selected as rationale for this goal of enrollment within 30 days of referral receipt.

District referral reaches Intermediate Unit......... Tracking completed and call to itinerant made......	1 day
Evaluation scheduled, accomplished.................	2 days
Action Request to Intermediate Unit............... Letter inviting parents to I.E.P. conference sent...	1 day
Parents allowed 10 days response time..............	10 days
Conference held within 5 days......................	5 days
Action Request to Intermediate Unit................ Due Process forms mailed to parent.................	1 day
Parents allowed 10 days response time.............. Therapist notified upon parent response or 10 days and if allowed, instruction begins..............	10 days
Total..........	30 days

Flowcharts

To graphically chart the detailed procedures to enrollment, review and dismissal of a pupil involved in the itinerant special education programs the flowcharts, on Tables 2, 3 and 4, are presented to depict the typical progression and alternatives of the designed process.

For enrollment, the flowchart (Table 2) was used. Typically a pupil was first screened by the itinerant special education teacher or therapist upon written request. The itinerant teacher/therapist then discussed each case with the requesting teacher, comparing his/her fingings with those of the teachers, and utilizing the time to provide in-service information to the teacher on what to look for--why some cases were considered to be in need of further evaluation while others were not, perhaps the later being in the acceptable range of developmental norms. This was a practical in-service program capitalizing on a teacher's request. The request, with the disposition of each case was sent. After the screening, to the central office for initial tracking of pupils "pending referral". Only the name, grade, school and district and area of concern were listed on this first track, keeping information involved to a minimum.

The teacher then was responsible for following through with the initial generation of the referral and the signed parental permission to evaluate, according to the steps chosen by the school district administration. In some districts all referrals were completed by the classroom teacher. In other districts the principal, the nurse, the guidance counselor, or the psychologist was the person who completed the form. A similar procedure was utilized for pupils already in special education classes operated by the Intermediate Unit. Parent referrals were directed to the classroom teacher. Typically referrals were not accepted directly from parents.

The referral, with permission to evaluate, then went to the district (or intermediate unit) administration for verification and authorization before being sent to the intermediate unit "IEP secretary".

At the point of referral receipt the IEP secretary checked the "pending referral" file for the particular pupils name, and, if the screening procedure had been accomplished, found the tracking sheet. Additional and/or corrected identifying information was taken from the referral, and at that time the referral was checked for completeness. If it was incomplete it was sent back to the district with a memo indicating the discrepancy (See Appendix H for a sample form).

The referral and permission slip were photocopied and the original was filed with the tracking sheet in the "pending with referral" file. The photocopy was routed to the Supervisor for his inspection and assignment to the appropriate itinerant personnel. The central office secretary then notified the itinerant personnel. To this point the itinerant had completed only one form, noting the date of the screening and the disposition of the case.

A diagnosis was made following the evaluation, which frequently required psychological testing or reports. from sources including clinics, opthalmologists, optometrists, audiologists, otologists, a diagnosis was reached.

If no diagnosis report was forthcoming within 7 days the Instructional Advisor notified the itinerant personnel and the Supervisor. This provided an automatic feedback system with which the Supervisor could monitor and correct delays in that aspect of the program.

Reports to the central office were made by an Action Request form, in checklist fashion, which indicated what had been done in the field, and cued the office to procede with the next step. That step was to track the date of the evaluation, as well as the mailing of a letter from the Intermediate Unit to the parents. The letter invited them to an IEP development conference in cases where a problem had been found. Parents had ten days in which to respond, indicating their intent to participate in a conference or waiving that right. The ten days period was tracked in the "ten day" file of the IEP secretary, and the IEP Implementor was informed that the case would be requiring and IEP conference shortly.

When the parents' positive response was returned to the central office, the itinerant personnel was notified, and, with the IEP Implementor (as the LEA representative), they and the parents, arranged a mutually agreeable time for the IEP development conference. If a negative response to the invitation was received or if the ten day period elapsed without a reply, the itinerant personnel and the IEP Implementor met to develop an IEP. In either case, a copy of the IEP formulated was given to the parent, and througout an Action Request, the next step, the mailing of the formal Notice of Recommended

Assignment form to the parents, was accomplished by the office. Again the tracking sheet was updated and placed in the "ten day" file upon receipt of a signed notice, or the lapse of a ten day period without a response, the enrollment procedure was completed. (See Appendix A for speech (yellow) notice and hearing or vision (blue) notice). If the parents had signed the due process form at the conference, that fact was indicated on the Action Request, and accompanied the Action Request to the central office secretary. She completed the process by updating the tracking sheet and placing the record in the "active" file. This also constituted completion of the formal enrollment procedure. If the Notice of Recommended Assignment form had been presented to the parents at the IEP conference, but they chose to sign and return it later, they were allowed a five day period for their response. The Action Request in this case indicated the circumstance, and the tracking sheet was filed in "Day 5" of the "ten day" file. Upon positive receipt or exceeding the five day period without receipt, the pupil was enrolled and the tracking sheet was filed in the "Active" file. Pupils were enrolled only when the Notice of Recommended Assignment form was signed by the parents and returned to the office, or the appropriate timeline for its return was exceeded. In all cases the office apprised the district of the outcome and the the pupils were tracked in the "active" file.

If no agreement was reached at the IEP conference the Instructional Advisor was notified by the IEP Implementor. Depending on the individual circumstances of the disagreement, the Instructional Advisor or the Supervisor's input was employed. If the disagreement was such that the next step, a pre-hearing conference, was involved, the input of the Supervisor and district personnel were automatic. If agreement on an IEP was reached at the pre-hearing conference, the routine procedure resumed, to the completion of the enrollment. If, however, there was no agreement reached at the pre-hearing conference, the case was dealt with on an individual basis, and the district and intermediate unit conferred and reached a decision to take the case to a formal hearing, or to discontinue efforts to enroll the pupil. In the latter situation the pupil was tracked in the "inactive file."

In cases where an evaluation turned up a diagnosis of "no problem," the Action Request ordered a letter advising the parents of that finding (See Appendix H for a sample of the letter of non-exceptionality). The secretary then filed the updated tracking sheet in the "in-active file." She also sent a status report to the referring district for their records (See Appendix H, follow-up on referral).

In the typical review/revision procedure (Table 3), the Action Request form was employed again to order the appropriate procedural safeguards and parental notification. With an understanding of the enrollment procedure the reader should be able to follow the flow of the review/revision procedure. The procedure was used with each child at least annually. Although a Notice of Recommended Assignment (requesting parents permission to enroll/remain enrolled in the program) was valid for a period of two years, in the procedure it was renewed annually, concurrent with the IEP review/revision. This practice prevented an oversight in renewing the due process on time, and also relieved parents from being approached "one more time" with more forms to be signed.

Similar to the review/revision procedure, is the dismissal procedure, depicted in the third flowchart (Table 4). It should be noted that the dismissal process is quite simplified in comparison to the enrollment procedure.

Planned Evaluations

Evaluations of the project were conducted in numerous ways during the project year. An ongoing informal assessment was accomplished by the Supervisor with on-site visits, staff record review, monitoring of the tracking system, discussions with the Instructional Advisor, IEP Coordinators, IEP Implementors, professional staff, secretarial staff, district personnel, parents, and the state regional reviewer.

To gather opinions regarding the progress of the project questionnaires were designed for the Instructional Advsior, IEP Coordinator, IEP Implementor, itinerant staff, and a random sample of district teachers, district administrators, and parents. Questionnaires were sent to these persons at mid-year to constitute a formative evaluation and other questionnaires were sent at the end of the year to constitute a summative evaluation. The results of these evaluations are found later in this report.

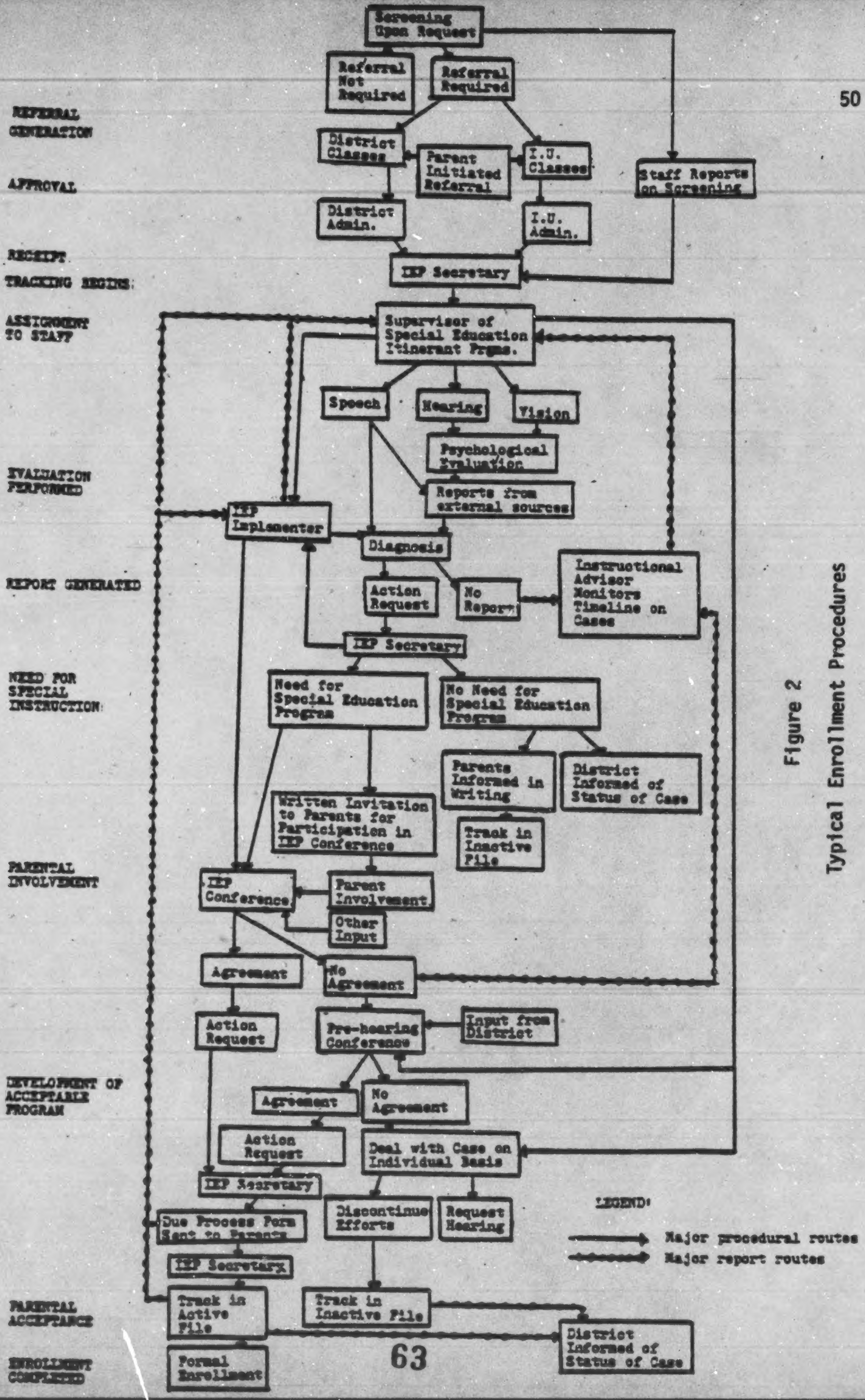
REFERRAL GENERATION
APPROVAL
RECEIPT
TRACKING BEGINS:
ASSIGNMENT TO STAFF
EVALUATION PERFORMED
REPORT GENERATED
NEED FOR SPECIAL INSTRUCTION:
PARENTAL INVOLVEMENT
DEVELOPMENT OF ACCEPTABLE PROGRAM
PARENTAL ACCEPTANCE
ENROLLMENT COMPLETED
Screening Upon Request
Referral Not Required
Referral Required
District Classes
Parent Initiated Referral
I.U. Classes
Staff Reports on Screening
District Admin.
I.U. Admin.
IEP Secretary
Supervisor of Special Education Itinerant Prgms.
Speech
Hearing
Vision
Psychological Evaluation
Reports from external sources
IEP Implementer
Diagnosis
Action Request
No Report
Instructional Advisor Monitors Timeline on Cases
IEP Secretary
Need for Special Education Program
No Need for Special Education Program
Parents Informed in Writing
District Informed of Status of Case
Track in Inactive File
Written Invitation to Parents for Participation in IEP Conference
IEP Conference
Parent Involvement
Other Input
Agreement
No Agreement
Action Request
Pre-hearing Conference
Input from District
Agreement
No Agreement
Action Request
Deal with Case on Individual Basis
IEP Secretary
Discontinue Efforts
Request Hearing
Due Process Form Sent to Parents
IEP Secretary
Track in Active File
Track in Inactive File
District Informed of Status of Case
Formal Enrollment
LEGEND:
Major procedural routes
Major report routes

Figure 2

Typical Enrollment Procedures

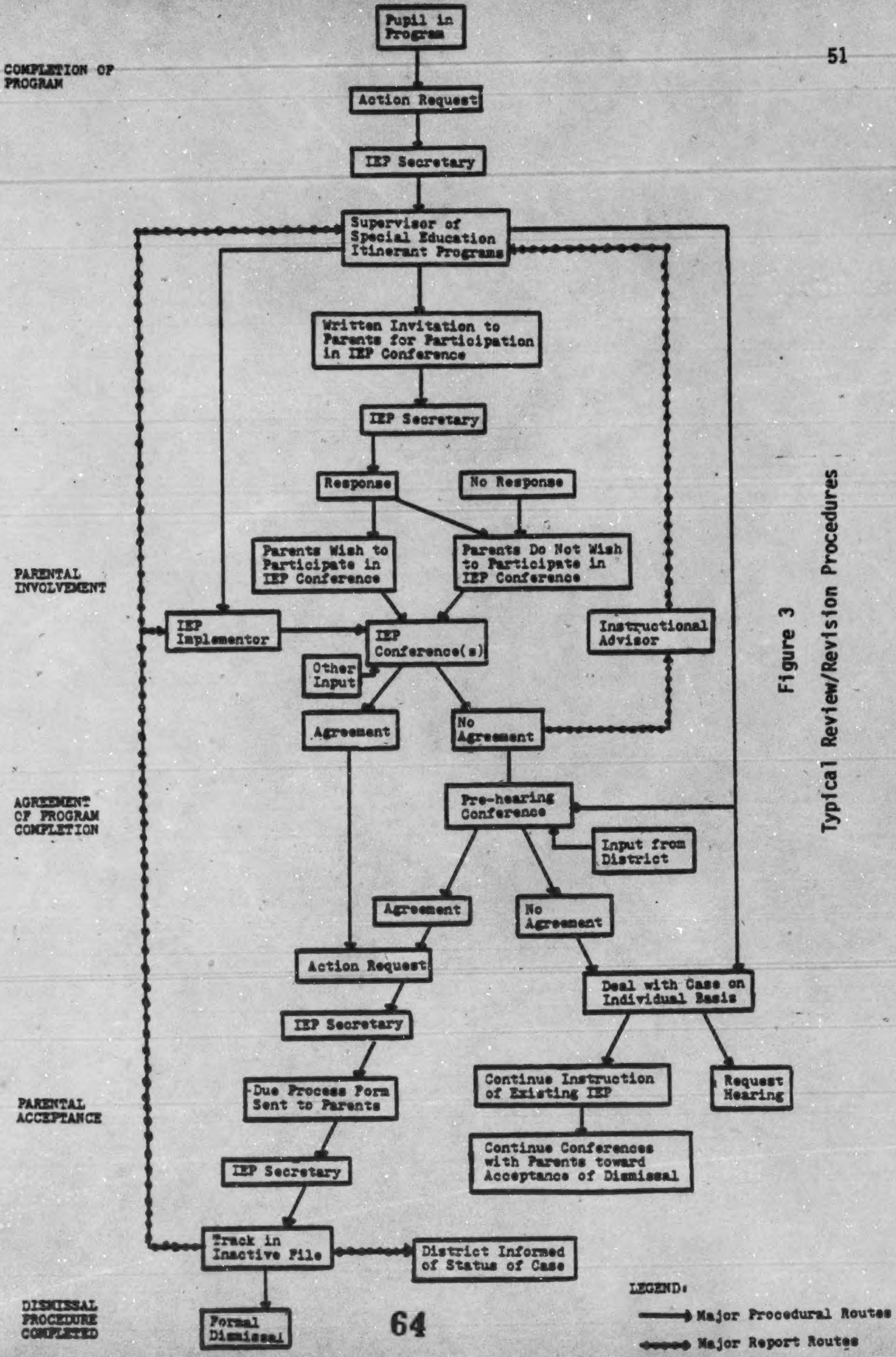
COMPLETION OF PROGRAM
PARENTAL INVOLVEMENT
AGREEMENT OF PROGRAM COMPLETION
PARENTAL ACCEPTANCE
DISMISSAL PROCEDURE COMPLETED
Pupil in Program
Action Request
IEP Secretary
Supervisor of Special Education Itinerant Programs
Written Invitation to Parents for Participation in IEP Conference
IEP Secretary
Response
No Response
Parents Wish to Participate in IEP Conference
Parents Do Not Wish to Participate in IEP Conference
IEP Implementor
IEP Conference(s)
Instructional Advisor
Other Input
Agreement
No Agreement
Pre-hearing Conference
Input from District
Agreement
No Agreement
Action Request
Deal with Case on Individual Basis
IEP Secretary
Due Process Form Sent to Parents
Continue Instruction of Existing IEP
Request Hearing
Continue Conferences with Parents toward Acceptance of Dismissal
IEP Secretary
Track in Inactive File
District Informed of Status of Case
Formal Dismissal
LEGEND:
Major Procedural Routes
Major Report Routes

Figure 3

Typical Review/Revision Procedures

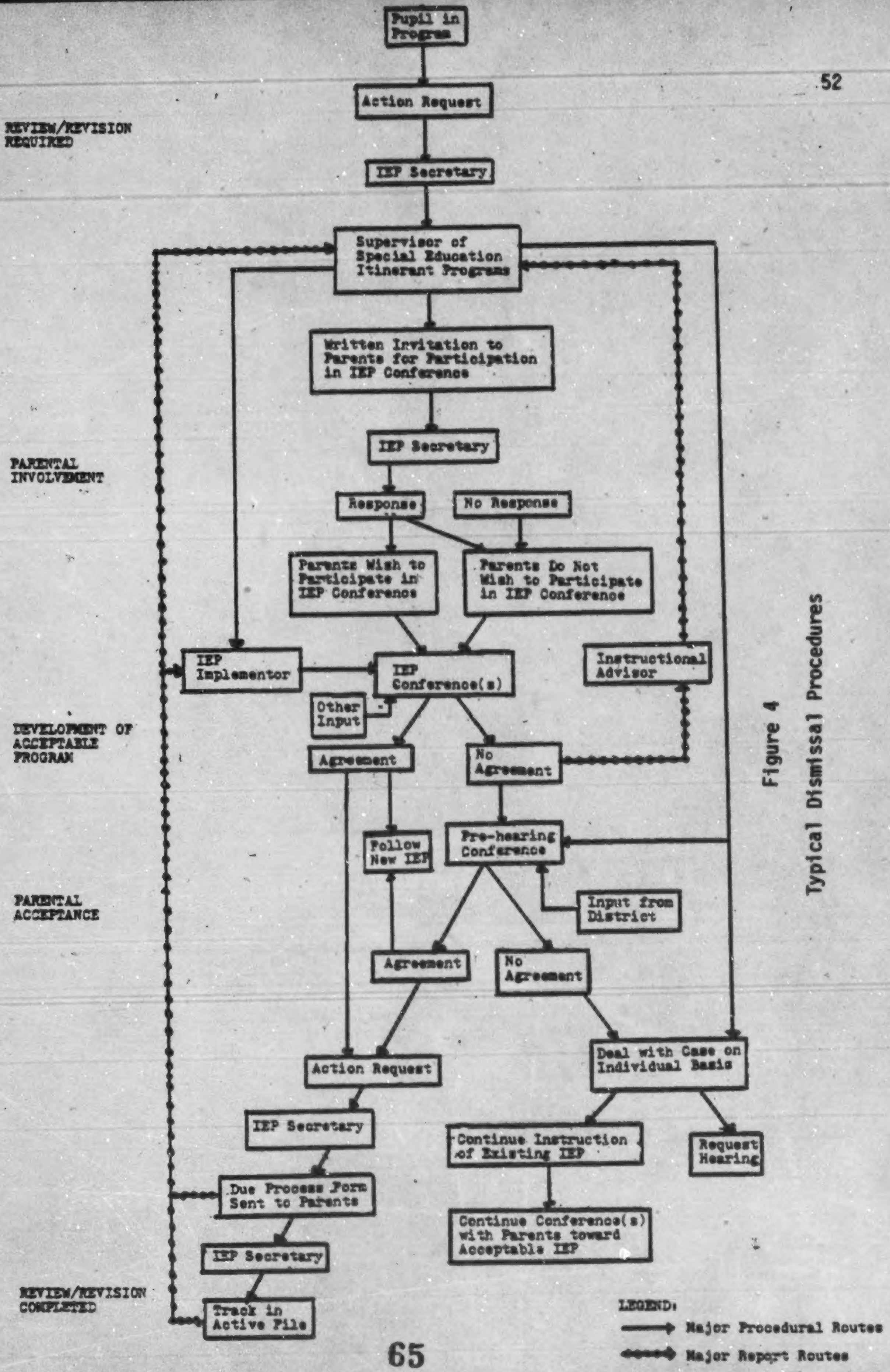
REVIEW/REVISION REQUIRED
PARENTAL INVOLVEMENT
DEVELOPMENT OF ACCEPTABLE PROGRAM
PARENTAL ACCEPTANCE
REVIEW/REVISION COMPLETED
Pupil in Program
Action Request
IEP Secretary
Supervisor of Special Education Itinerant Programs
Written Invitation to Parents for Participation in IEP Conference
IEP Secretary
Response
No Response
Parents Wish to Participate in IEP Conference
Parents Do Not Wish to Participate in IEP Conference
IEP Implementor
IEP Conference(s)
Instructional Advisor
Other Input
Agreement
No Agreement
Follow New IEP
Pre-hearing Conference
Input from District
Agreement
No Agreement
Action Request
Deal with Case on Individual Basis
IEP Secretary
Continue Instruction of Existing IEP
Request Hearing
Due Process Form Sent to Parents
Continue Conference(s) with Parents toward Acceptable IEP
IEP Secretary
Track in Active File
LEGEND:
Major Procedural Routes
Major Report Routes

Figure 4

Typical Dismissal Procedures

Chapter VII

IMPLEMENTATION

Late Demands

Preliminary awareness, discussion, and ideas were shared with the itinerant staff members during the 1976-1977 school term. It was not until September, 1977, at the start of the school term, however, that the staff received in-service information regarding the actual implementation of the of the new direction of the project. A main reason for this apparent delay was the fact that the regulations for P.L. 94-142 were not published until August 23, 1977.

The goal of completing IEPs during the year on pupils enrolled in the program prior to September, 1978, and completing IEPs on previously enrolled pupils by October 1, 1977, had been established through a memorandum from the Department of Education dated June 22, 1977 (See Appendix C). In a Telex/TWX letter from the Department of Education dated August 30, 1977, an order from the Secretary of Education was announced, changing the standards, and making October 1, 1977, the deadline for the development of the IEPs for all handicapped students (See Appendix C).

Results of Late Demands

The revised deadline demanded a revision in the implementation of the design. Every effort was needed to develop IEPs on all pupils in the program from the previous year. This was the top priority and precluded the desired early star of the actual educational program. In fact, it was not until mid-October that the entire staff was on a normal itinerant instructional schedule. While the delay was of necessity, it started the year on a negative note:

a. The staff was not expecting this approach.

b. District teachers did not understand the implications of the law, if they had heard of the law at all. All they reacted to was the fact that the itinerant staff members were not able to screen or evaluate their new pupils at the start of the year.

c. District administration required current, updated in-service infromation on the change of the events.

d. Parents did not understand why their children were not being instructed, if, in fact, a new law was passed for this type of child.

Dissemination of the Details: The Big Key to Successful Implementation

In-service presentations were begun on September 8, 1977, for 32 staff members, of which 27 were veteran staff and five were first year persons on the staff. Through the coordinated efforts of the Supervisor, IEP Coordinator, and the IEP Implementor for the itinerant programs, the new procedures and requirements for the IEP development were outlined and reviewed with the itinerant staff numerous times. Discussion sessions seemed to be the best approach, an as staff members brought questions of specific examples to be aired. The staff accepted the challenge remarkably well. Feedback from them confirmed that an area fo need was to inform the district personnel better. An agreement was reached. In-service information would be provided to the itinerant staff members in order for them, in turn, to provide in-service information to the faculties in the schools in their assignments. The Supervisor would proceed with in-service opportunities for district personnes. He would also circulate a memorandum to elementary school teachers regarding the elimination of second grade speech screening as a routine measure, and announcing the procedure of the request for screening form. This memorandum was in addition to a memorandum sent on September 12, 1977, describing the screening request from (See Appendix G for copies of the memoranda).

On September 15, 1977, the Supervisor met with the district-Intermediate Unit contact-liaison personnel as part of a coordinated effort to discuss the new law and the new Intermediate Unit directions. This meeting provided an excellent opportunity to discuss the itinerant program changes with the 13 district contact persons (See Appendix F for the meeting agenda).

The meeting had distinct positive as well as negative features. On the positive side, it provided some of the contact persons with their first exposure to the P.L. 94-142 in any detail, and gave them a good outline of the local program operation and the attempt to comply with the new law. On the negative side were the facts that too much was presented at one time, too many changes were to be implemented and the absorption of these ideas was fragmented. This became evident when little visible effect was noted in some of the schools where the itinerant programs were concerned.

A memorandum from the Supervisor to each of the 13 chief school administrators was sent on September 23, 1977. In this memorandum the Supervisor requested consideration for attendance at a meeting of the superintendent and principals (See Appendix G). Although the results of the effort were positive it was unfortunate that the meetings could not have been held earlier. Specific responses were received from 12 of the 13 districts. The outcomes were:

District A - No need to meet. District contact person understood and disseminated information from the September 15 meeting.

District B - No Response.

District C - Telephone conferences with the Assistant Superintendent clarified nemerous directions. A formal meeting was held in February.

District D - Telephoned. Indicated that they felt comfortable with the directions and would disseminate the information.

District E - Proceure described on September 15 would be disseminated (See response, Appendix G).

District F - Met with superintendent, principals, and guidance counselor on October 5, 1977.

District G - Met with superintendent and principals on October 18, 1977.

District H - Scheduled for October 27, 1977. Rescheduled by district, met on November 9, 1977, with superintendent and principals.

District I - Met on October 21, 1977 (See Appendix G for agenda).

District J - Met on October 28, 1977, with superintendent and principals.

District K - Met on November 2, 1977, wtih superintendent and principals.

District L - Telephoned. Indicated no need for the meeting.

Assistant superintendent was contact person and disseminated information from the September 15, 1977, meeting.

District M - Met on October 11, 1977, with superintendent and principals.

In addition to these formal visits, numerous other telephone conferences occurred to clarify the program operation. On February 14, 1978, a second meeting was held for all district contact persons. In that meeting the Supervisor again reviewed the itinerant programs and the referral procedure for each (See Appendix F for the agenda).

Continuous in-service sessionswith the itinerant staff members were held on a monthly basis (See Appendix E for copies of agendas). The meetings included topics on :

a. The tracking system. Development of an understanding of what the law required, how the design cared for it, and the resultant benefits to the staff in eliminating the paperwork task and the particular record keeping chore as much as possible.

b. The method of transferring previously enrolled pupils onto the new system through an Action Request.

c. How to develop proper IEPs, initally. Assistance was provided in workshops by the Supervisor, the IEP Coordinator, and the IEP Implementor.

d. What forms the parents were receiving. Since the office was mailing the forms, the staff needed to know what the purposes of the forms were and whtat the format was, in order to be knowledgeable in parent conferences and district in-service sessions.

e. Testing procedures to be utilized in screening new pupils and in evaluating new referrals. The development of an approved battery of tests was accomplished. From this battery at least two tests were required prior to diagnosis (See Appendix P for a sample listing of the testing battery for speech and language cases).

f. The familiarization with audio and filmstrip explanations of P.L. 94-142. Kits were available from the IEP Coordinator, to be utilized in faculty meetings, PTA meetings, and similar meeting.

g. Discussion sessions regarding the premise that effective involvement with parents, stemming from the IEP conferences, could result in maximizing the instructional time in the sessions, resulting in greater pupil achievement. In essence, selling the goal to the staff members was emphasized.

h. Guest speaker. State Supervisor of Speech and Hearing Programs discussed current trends as viewed from the state level.

i. A quiz on the new procedure and IEPs. A novel approach to reviewing information presented earlier, it proved to eliminate misconceptions held by some staff members regarding the intents, the roles, and the general feelings of persons in the new procedure (See Appendix L for a copy of "Quiztime").

j. An annotated listing of tests available to the staff was updated. This provided the staff with immediate information about a variety of evaluation tools. It also promoted peer in-service in teaching-learning test administration.

k. Improvement in IEP development. While the IEPs were acceptable initially, additional in-service information was provided, primarily by the IEP Implementors, to improve the quality of the IEPs for greater effectiveness (See Appendix G for outline for quality IEPs discussion).

Additional Need

From the start of the year it was evident that to accomplish the task at hand personnel were needed in addition to the Supervisor and one IEP Implementor in the itinerant programs. In November, 1977, the Instructional Advisor vacancy was filled. In December, 1977, an additional IEP Implementor position was authorized. This position was filled in January, 1978. The personnel selected for both positions were promoted from teaching positions, and proved to be valuable, knowledgeable additional staff members at their new level, aiding the implementation process. Their replacements on the instructional staff, and one additional speech therapist constituted three additional new personnel who required intensive in-service during the mid-term period.

The addition of the second IEP Implementor allowed the assignment of the 1200 square miles of geography to be split in half, and more than doubled the available time of the IEP Implementors as it decreased travel time and increased assistance time (See Appendix K for IEP Implementors' assignments). The Instructional Advisor was assigned the task of monitoring of the tracking system and greater involvement with the staff in their instructional needs and achievements. The Supervisor then was able to move into a management role to a greater degree and dealt with the specific problems of pupil placement and program design where there was parental disagreement. The change also enabled him a greater amount of time for on-site visits to schools and liaison with district personnel.

Chapter VIII

THE FORMATIVE EVALUATION

To assess the progress of the project informal and formal means of evaluation were undertaken by mid-school year.

Informal Evaluation: A Description

The informal evaluation process utilized feedback of various .. kinds from each of the groups influenced by the project. The groups were designated, as listed below:

School administrators (superintendents, assistant superintendents in school districts)

Building principals

I. U. Instructional Advisor

I. U. IEP Coordinator

I. U. IEP Implementor

I. U. IEP Itinerant staff of teachers and therapists

Parents of pupils in the progrmas who participated in IEP development conferences

Parents of pupils in the program who did not participate in IEP development conferences

Pupils in the program

The informal evaluation information from most of the groups listed above was through discussion during on-site visits in the schools. Periodic reports from the Intermediate Unit staff members provided data from which the direction of the program could be judged, such as caseload number and the description of the problems. Discussion sessions with the staffs in staff meetings, at least monthly, provided the opportunity for airing the positive and negative feelings of the staff members and searching for ways to continue to improve the system.

Parents were encouraged to write or telephone the supervisor directly if there were questions or concerns regarding the procedures, the placements, or the program that was being considered for their child.

Formal Evaluation: A Description

In order to obtain valid feedback sample of responses from each group in a formal, expeditious fashion, questionnaires were sent to the group members. Because of the large number of members in some groups a random sample of particular groups was selected. The following represents a breakdown of the questionnaires distribution.

a. 27 School administrators

b. 34 Building principals

c. 75 Classroom teachers

d. 1 Instructional Advisor

e. 1 IEP Coordinator

f. 1 IEP Implementor

g. 33 Itinerant special education staff

h. Parents of pupils in itinerant programs:
50 who attended IEP development conferences
50 who did not attend IEP development conferences

i. 0 Pupils in the programs

272 Total questionnaires distributed

The questionnaires for each group were designed to measure understanding of the concept, satisfaction or dissatisfaction with the new procedure, and to request suggestions for improvement. In most cases each group required a different questionnaire because of the variety of perspectives that they represented.

The "Parents of pupils in the programs" group was divided into two categories of those who attended the IEP conferences (generally those parents who displayed more interest in the program totally) and those parents who had declined the invitation to attend the invitation to attend the invitation to become involved in the program by stating a negative response or by not responding to the offer at all. Questionnaires for the parents' sub-groupings were color coded for proper tally. All participants in the evaluation were afforded the anonymity, except the Instructional Advisor, IEP Coordinator, and IEP Implementor, due to the singularity of each position.

Through the informal encounters with pupils in the programs a distinct impression was received by the Supervisor. By and large, pupils in the program were of primary school age and offered no specific positive or negative feelings during the on-site visits. Pupils, as a group, were dropped from consideration for questionnaires at that point.

Formative evaluation questionnaires were devised and sent to each of the groups of individuals in December, 1977 (See Appendix S for formative evaluation samples).

Results of the Informal Evaluation

The impressions received from the various individuals were very interesting. School administrators reflected an attitude that the law had certain mandates which, in one way or another, had to be administrated. There was no objection to the methods designed and implemented to that mid-year point in time. Administrators were pleased that the administrative task of tracking, including the job of mailing and receiving hunderds of letters and forms was handled by the Intermediate Unit, and they felt assured that they could obtain any information that they needed within moments via a telephone call.

Building principals, on the other hand, were less accepting of the total package. Many principals challenged the necessity for the paperwork, abhorred the delays before a child entered the program, and opposed the referral system, especially their new responsibilities of completing the formal referral forms and, in some cases, obtaining "permission to evaluate" forms prior to submission of the referral going to the Intermediate Unit office.

Classroom teachers, accustomed to the quick entry of a pupil into an itinerant program, showed the least acceptance of the change that was being implemented. The teachers were, understandably, furthest from the concerns about the administration and had the least knowledge (or concern) regarding the new regulations which were being implemented. Even following explanations by the Supervisor and/or the itinerant staff, and in many cases by their own district personnel, they still did not accept the impositions which they felt were being placed on the pupils as well as on themselves. For many, their district had decided that they, as the person closest to the pupil, should complete the initial referral form. They felt a new accountability being imposed upon them. "Were the forms completed properly?" "What will happen if I go through all of this paperwork and the pupil doesn't need special help after all?" and "What a waste of time," were some of the comments. Altogether the itinerant staff members were available to assist in any way needed there was general hesitancy to "bother" the itinerant frequently. In many cases the request for screening and the automatic consultation as a follow-up were keys to developing a better, open communication between the itinerant programs and the teachers. The teachers seemed somewhat reluctant to share all their feelings with the Supervisor, and this, too, was understandable, since he represented a superior level in the hierarchy of school personnel. Much of the thread of thought which yielded these conclusions was provided by the itinerant staff memgers in response to questions about teacher reactions that the Supervisor experienced.

The Instructional Advisor, IEP Coordinator, and IEP Implementor were supportive of the details of the project. They foresaw the benefits of accountablility that the system would bring; the accomplishment of compliance with the law and a systematized method to accomplish these goals. They had been consulted in the process of development of the design, and they knew the requirements of the law. Thue they had exhausted alternatives to the need. They were committed to the project. Everyone was anxious, however, to get the mechanics moving smoothly and more rapidly, in order to decrease the processing time of enrollment.

The itinerant staff members had mixed feelings about the program changes. They knew that the law had certain requirements, but they did not appreciate the delay in beginning direct instruction to the pupils, due to the involved paperwork requirements. Some staff members expressed the desire to obtain the parents' permission to evaluate by themselves, while others wanted to track their caseloads and the procedural safeguards themselves, feeling that this would be more efficient than having the office do the paperwork. Since a foregone conclusion of centralized tracking as an administrative function had been selected when the project alternatives were determined, this was not a viable option for consideration. Over a period of time, the Supervisor felt, such tracking would be too complex to maintain properly and it would degenerate, or changes in the staff assignments would point out incompatabilities, or time spent in recordkeeping would grow out of proportion to instructional time. But if the program was to meet compliance with the law and provide an increase in educational value, the instruction time had to be maximized, both in time available and in value.

Parents, frequently, were baffled by the barrage of papers they received. The information presented was beyond their capability of understanding in some instances, and too much was presented to them. Two parents refused to continue placement of their children in speech therapy because the term "handicapped" (Education of All Handicapped) was used to describe a child with a moderate speech defect. Previously the children had received "speech therapy." But now, although the instruction was basically the same, they were labeled "handicapped," and in the parents' minds this was not going to occur. They demanded withdrawl from the program, unfortunately, despite attempts to explain the new law. Other parents who telephoned to find out more information learned more about the law, and the source of the program (Special Education from the Intermediate Unit). Most parents expressed interest in knowing that federal legislation was affecting their children. Parents who did not respond at all because of being overwhelmed, or out of frustration, ignorance, or whatever reasons, did not gain an understanding of what the program, and the law, were attempting to accomplish for their children.

The pupils who were enrolled in programs, when approached at their level with questions regarding feelings about the program, generally had little to say. The Supervisor was a stranger to them, and for many, this was the first year they received special instruction. They had no standard by which to compare, or were unable to convey values of the program years. Inevitably they expressed the attitude of liking to work in small groups or individually, and this represented no change from attitudes of pupils interviewed by the Supervisor in previous years.

Results of the Formal Evaluation

Responses to the formative questionnaires are shown in Table 1 on the next page. Information on that table shows a generally good percentage of return of the questionnaires (63%) and a very good positive response overall (80.7%). The classroom teacher group presented the lowest positive feeling (36.6%) which affected the overall positive percentage considerably. Specific responses of the formative questionnaires are presented in Appendix S.

Table 1

Responses To Formative Evaluation Questionnaire

Group	Number Sent	Number Returned	Percent Returned	Percent Positive	Percent Negative
School Administrators	27	20	74%	90%	10%
Building Principals	34	15	44%	80%	20%
Classroom Teachers	75	41	55%	36.6%	63.4%
Instructional Advisor	1	1	100%	100%	0
I.E.P. Coordinator	1	1	100%	100%	0
I.E.P. Implementor	1	1	100%	100%	0
Itinerant Staff	34	30	88%	96.7%	3.3%
Parents Who Participated In I.E.P. Development	50	34	68%	100%	0
Parents Who Did Not Participate In I.E.P.	50	28	56%	100%	0
Totals	273	171	63%	80.7%	19.3%

Conclusions and Inferences

From the summary information in Table 1 a number of conclusions and inferences were made.

- School administrators presented a high rate of return- the highest outside of the Intermediate Unit groups surveyed. They were generally positive regarding the new direction of the itinerant programs.
- Building principals did not present a high rate of return- and their responses suggest a reflection of their involvement with the procedure and the resulting time delays which they experienced.
- Classroom teachers' responses suggest the lack of appreciation for the goal, a lack of understanding of the new law, and a reaction to greater responsibility in the referral process and the time delay in enrolling pupils into the programs.
- The Instructional, the IEP Coordinator, and the IEP Implementor reported satisfaction and acceptance of the new program directions. They were the groups most closely associated with, and knowledgeable about, the mandates of the law. They saw the procedures as workable and a logical way to achieve their role goals of getting pupils into programs and having IEPs developed on the pupils (rather than having an immediate concern on the progress rate or the dismissal rate of the pupils).
- The itinerant staff reacted with numerous suggestions,

most of which could not be implemented because of legal restrictions. While many persons were not absolutely in favor of the new procedures as designed, they accepted them as workable. Interestingly, they were split 15-14 in their response to the question accepting the feasibility of enrolling pupils within a 30 day time frame.

- Parents who participated in the IEP development were pleased with their increased involvement in the school's process. They presented a favorable response to the direction taken, eventhough most had no standard for comparison because they had only one, the current, experience with the itinerant programs.
- Parents who did not participate in the IEP development, but who took the time and effort to complete and return the questionnaires, were favorable toward the program as were the parents who participated in the IEP development more actively. The former group suggested an atmosphere of concern regarding their children's education, but demonstrated an attitude of support for the professionals in the school for the proper decisions and direction for their children. As with most surveys, one can only speculate the feelings of those who did not complete their questionnaire. Were they concerned so little -- or so confident that the schools are making the right decisions?

Overall, the group with the least positive reaction was the classroom teachers' group, 36.6% positive, followed by the principals, 80% positive, and the district administrators, 90% positive. This reaction reinforced the necessity for continuing efforts to explain to district personnel about the new law and our efforts to make the new situation result in a better educational system for the pupils. For this an individual approach dealt with the responsibilities for the greatest positive affect.

Chapter IX

IMPLEMENTATION, PART 2: THE SECOND HALF OF THE YEAR

Modifications for Improvement

As a result of the formative evaluation some modifications in the program were deemed advisable. Many of the individuals questioned felt that, although the process of entry into the program was systematized, it should be expedited even further. To this end increased priority was placed on same day processing by the Intermediate Unit secretary involved with this procedure. During the first half of the school year the processing improved naturally, due to less staff illness and the passage of the holidays of Thanksgiving, Christmas, and New Year's Day. These holidays had caused delays by allowing mailed correspondence to accumulate as well as being simply additional days in the count of days to the enrollment of a pupil.

Slight changes were made in the Action Request form and procedure which encouraged the delivery of the notification of recommended assignment forms in person at the conference, avoiding that particular processing and mailing time, and thus shortening the return time to a maximum of five days rather than ten, since the forms were presented in person. The tracking process remained intact, and a few more days were reduced from the average enrollment time.

An additional IEP Implementor was added. This allowed the 1200 square mile geography to be divided among two IEP Implemantors.

The result of this change was the increase in number of conferences that could be held within any given period, leading to the acceptance of an IEP and the initiation of the direct instruction.

In-service programs continued for the itinerant staff in an effort to change the negative feelings still existing regarding some of the aspects of the procedure. One such program took the form of a quiz designed to provide a lighthearted approach while allowing input on serious concerns. The result improved morale by promoting an understanding that office personnel did realize difficulties in the field; and the itinerant personnel gained an appreciation of the involvement in the office. Specific questions on the quiz provoked a valuable group discussion as well as the voicing of individual concerns following the in-service meeting. (See Appendix L for a sample of the "quiz").

Formal emphasis was placed on the completion of pupil evaluations within a one week period following assignment of the case. This aspect was monitored closely. If evaluations were not able to be completed in one week, a written note of explanation was required. Thus, either the note was submitted in seven days, or an Action Request initiated the next step in the procedural safeguards. Numerous delays were revealed through the feedback mode. Reason for delays were itinerant staff absences, pupil absences, scheduled IEP conferences, and the lag time caused by waiting for additional diagnostic information from agencies or individuals independent of the intermediate unit over which the program had no control. Examples of the last factor were, specifically, eye specialists' reports, audiological reports and otologic reports.

Continual input encouraged districts to expedite their processing of referrals. The initial tracking of pupils screened and found in need of a fourth referral and evaluation were gathered periodically for reports to district administration. This allowed district personnel to explore the courses for the delays in their districts, which the Intermediate Unit, by the nature of the structure and the limitation of authority, could not do. The reports did stimulate a growth of accountability and re-emphasis in district processing. Certain cases were not processed due to previous low priority of the program by certain district personnel. Other cases were not able to be referred because of the inability of the personnel to obtain a signed permission form from parents to allow an evaluation.

A suggested model of a district tracking plan was explained to each district (See Appendix G, memo suggesting model). The process included an important feature, feedback to the referring classroom teacher. Frequently when a teacher consulted with an itinerant regarding a child the need for referral was established, and the teacher initiated her steps in the procedure then turned the information to the principal, guidance counselor, home-school visitor, or whomever was in charge of the subsequent processing. The teacher heard nothing until the day the itinerant returned to evaluate the child. Those referrals not processed for whatever reason reached a dead end, without the teacher's knowledge. Many teachers incorrectly assumed the delay to be the fault of the itinerant program. The result was a decrease, generally, in the appreciation of this itinerant progress. Throughout the year the effort continued to draw together itinerant staff, classroom teachers, principals, district administration, IEP Coordinators, IEP Implementors and parents of pupils in the program. Attitudes needed to be altered to realize a unified effort. The result of the effort was the enhancement of the itinerant special education programs. This, too, helped maximize the instructional time by allowing as much instructional time as possible for each pupil and allowed better programming to occur through parental special education personnel cooperation. The total value of the program increased.

The formative evaluation showed strengths and weaknesses in the programs. The program year continued with ongoing determination to draw resources together and utilize them for continued program improvement. Generally the project was moving in a positive direction.

Chapter X

THE SUMMATIVE EVALUATION

Overview

Near the close of the 1977-1978 school term a summative evaluation was conducted to measure the effectiveness of the year-long project. The summative evaluation involved:

1. Numerical information from the tracking system.
2. Numerical information from itinerant staff reports.
3. Data from the questionnaries to:
    a. 50 District Administrators and Principals (Selected at random).
    b. 50 Classroom Teachers (Selected at random).
    c. 1 I.U. Instructional Advisor.
    d. 1 I.U. IEP Coordinator.
    e. 2 I.U. IEP Implementors.
    f. 33 I.U. Itinerant Special Education Teachers/ Therapists.
    g. 200 Parents of pupils in the itinerant special education programs (Selected at random).

337 Total summative questionnaires distributed

The primary purpose fo the summative evaluation was to measure the achievement of the established objectives of the practicum. A second use of the evaluation was to accept feedback of suggestions that could be considered as having merit and could lead to further improvement of the program.

Measuring the Success of the Project

Objective 1: A 10% increase in the rate of the 1977-1978 dismissal rate over the 1976-1977 dismissal rate from the itinerant special education programs.

The accomplishment of Objective 1 was measured by a comparison of data from 1976-1977 and 1977-1978 itinerant special education staff reports and the tracking system information. The stated objective was a 10% increase in the 1977-1978 dismissal rate of pupils over the previous year's (1976-1977) rate. Successful achievement of this objective would represent an increase in program effectiveness, since it did not involve a variable factor in the criteria for dismissal between the two years in the comparison, and since the 1976-1977 year's dismissal rate was representative of past years in general. Since so many factors did vary, this was one of the few that could be utilized in a pre- and post- project testing situation. The nature of the itinerant special education programs did not make pre-test/post-test comparison of individual pupil's test scores feasible. Numerous specific tests were utilized to measure the particular problems of pupils within the general rubric of speech, hearing, and vision problems. Individual Education Programs were devised accordingly based on that information. Thus no two pupils received identical instructional programs. Comparative enrollment/dismissal data from the 1976-1977 and 1977-1978 school years was the logical choice to most accurately reflect changes in pupil achievement, since pupils usually remain in itinerant special education programs until their problem is corrected.

The variable factors that affected the program were the efforts of the project; reallocation of time, making better use of available time, offering and encouraging greater parental involvement in the program, and providing a new accountability of progress.

Table 2 on the following page provided information that indicated successful accomplishment of Objective 1. The table shows the speech, hearing, and vision programs all having significant increases in dismissal rates in 1977-1978. The percentage of increase over the three programs was 11.9%. Objective 1 was accomplished successfully since the goal was a 10% increase.

Objective 2: Legal compliance

Objective 2 was to bring the special education speech, hearing, and vision programs into compliance with the Pennsylvania State Department of Education Plan and the Federal Regulations of P.L. 94-142. This objective was accomplished successfully, as each requirement stated was established and executed as directed in the procedures of enrollment, review/revision, and dismissal of the pupils.

Objective 2a involved the provision of procedural safeguards and due process opportunities to the parents of each child enrolled in the itinerant programs. Again, through the monitoring of information in the tracking system, the Supervisor confirmed that the parents of each pupil in the program did, in fact, receive the due process of law opportunities, and where a response of the parents was returned, the date and the reply were noted in the tracking system, along with the reply. Information regarding the correct sequencing of the steps in the process and the timeline were also logged.

Table 2

Comparison Of Enrollment And Dismissals In The Itinerant Programs, 1976-1977 and 1977-1978

1976 - 1977				1977 - 1978				1976-1977 1977-1978
STAFF	ENROLLMENT	DISMISSALS	DISMISSAL PERCENTAGE	STAFF	ENROLLMENT	DISMISSALS	DISMISSAL PERCENTAGE	INCREASE IN DISMISSAL PERCENTAGE
Speech 20	1369	218	15.9%	Speech 22	1551	436	28.1%	12.2%
Hearing 6	54	1	1.9%	Hearing 6	63	5	7.9%	6.0%
Vision 4	48	2	4.2%	Vision 5	64	11	17.2%	13.0%
TOTAL 30	1471	221	15.0%	TOTAL 33	1678	452	26.9%	11.9%

Objective 2b was to obtain signed parental permission for evaluation prior to the administration of any evaluation. This objective was attained by requiring the signed permission slip as part of the referral process, a step that was checked by the secretary upon receipt of each referral. Unsigned permission forms, incomplete or missing forms resulted in an "Incomplete Referral" memorandum being sent back to the district, with specific directions of the requirements which would validate the the referral. Again, the tracking system provided information used to confirm that all pupils enrolled in the programs had, on file, a signed evaluation slip prior to any evaluation. Thus the successful achievement of this objective was realized.

Objective 2c was to provide an evaluation consisting of not less than two diagnostic tests before the decision was reached, based on test data, to proceed or not to proceed with the enrollment prodedures. The attainment of at least two diagnostic tests was monitored and assured by IEP Implementors who checked that aspect before the IEP Conference was conducted, by the Instructional Advisor on his on-site evaluation visits, and by the program Supervisor during his on-site spot checks.

Objective 2d was to provide a written invitation to parents to participate in the individual educational program planning. Through the procedure developed, whenever an evaluation indicated a recommendation for enrollment in an itinerant program an Action Request form was initiated. The central office secretary automatically sent the invitation forms to the parents and tracked the required 10 days time allowed for a response. The supervisor used information in the tracking system to confirm that written invitations were sent to the parents of pupils recommended for enrollment in 100% of the cases.

Objective 2e required program planning conferences for new enrollees and pupils already in the program. Again, through information indicated in the tracking system and also from reports of the IEP Implementors, the Supervisor confirmed that all pupils in the programs met this criterion. Each pupil had at least one IEP development conference, with or without the parents, depending upon the parents' interest to participate.

Objective 2f represented the next sequential step in the process, that of assuring that the parents of each child received a copy of the IEP following a conference, whether or not the parents chose to attend the conference. Again the itinerant staff members had the responsibility to initiate the Action Request form. This indicated that the IEP was presented to the parents in person at the conference, or was to be mailed to the parents if they did not attend a conference. In the latter case, the IEP accompanied the Action Request into the office for mailing to the parents by the IEP secretary.

Objective 3: Enrollment within 30 days.

Objective 3 required the enrollment of at least 90% of the pupils referred and recommended for enrollment to be enrolled in the appropriate itinerant program within 30 days as measured through data in the tracking system. This objective was not attained.

Analysis of the frequency distribution of days required to process pupils into the itinerant programs further indicated a decrease in processing time over three segments of the year (See Appendix T). The shortest processing during the first segment took 11 days; the second segment, 4 days; and the third segment, 6 days. The longest processing time in the first segment was 183 days; the second segment, 119 days; and the third segment, 69 days. Table 3 on the following page depicts the improvement made over the year in decreasing the enrollment time. It compares enrollment time during three segments of the school term. It indicates that the mean and median time for processing pupils into the program decreased from 55 and 51 days respectively at the start of the year to 33 days by the end of the year. But since 33 days was the average time, 90% of the pupils were not processed in within the 30 day goal.

Table 4 shows that the percentage of pupils who were processed within 30 days doubled, moving from 19.1% in the first segment to 40.8% by the last segment of the year. It also should be noted that the 90% criterion was reached at the 90 to 100 days enrollment time initially. The 90% criterion improved dramatically, to slightly better than the 50 days mark by the third time segment. The objective of processing 90% of the pupils within 30 days was not attained, however, during the 1977-1978 project year.

An analysis of the available information pointed to various reasons for the lack of achievement of this objective. Among the reasons were:

1. A delayed start in the full processing of referrals due to the requirements to complete the IEPs on pupils already enrolled in the program, by October 1, 1977.

Table 3

Comparison Of Days Required To Process Pupils Into Itinerant Programs During Three Segments Of The School Term

Segments	N	Mean	Median	Mode
Segment 1 Sept., Oct., Nov.	267	55.6	51	60
Segment 2 Dec., Jan., Feb.	112	52.9	51.5	56
Segment 3 Mar., Apr., May, June	49	33.1	33	38

Table 4

Percentage Of Pupils Enrolled Within Various Time Periods

Segment of Year	N	PERCENTAGE OF PUPILS ENROLLED IN:							
		30 Days	40 Days	50 Days	60 Days	70 Days	80 Days	90 Days	100 Days
Segment 1									
Sept., Oct., Nov.	267	19.1	32.2	49.4	61.8	73.4	82.8	89.5	91.4
Segment 2									
Dec., Jan., Feb.	112	17.9	31.3	50	68.8	79.5	86.6	92.0	96.4
Segment 3									
Mar., Apr., May, June	49	40.8	75.5	91.8	98.0	100%	-	-	-
TOTALS	428	21.3	36.9	54.4	67.8	78.0	85.7	91.4	93.7

2. Heavy initial referral at the start of the year.
3. The system was just beginning at the start of the year and was not refined enough to process all the referrals expeditiously.
4. Secretarial staff was limited. Initially the responsibility was an additional duty of an existing secretary. When an IEP secretary was hired, additional training was required. The secretary was absent numerous days of her early employment also.
5. In addition to office staff absences, itinerant staff absences and pupil absences contributed to delays, especially in the first two time segments.
6. The first and second time segments involved Thanksgiving and Christmas holidays during which time of 7 to 10 or more days were lost because the staff was off for holidays. Cancellations of school due to heavy snowfall accounted for additional "down-time" in the second time segment.
7. Delays in receiving reports from external agencies, especially in hearing and vision cases accounted, to a great extent, for the processing delays.
8. Initially only one IEP Implementor was involved full time with the itinerant programs. The addition of the second IEP Implementor at mid-year provided assistance to the goal of more expeditious conferences scheduled and, ultimately, enrollment.

9. Parents who did not respond to the written invitation for the conference were telephoned at least on two different occasions. This caused a delay beyond the 10 day period expectation. When parents agreed to attend a conference, fining a suitable, mutually agreeable time for the conference created delays to actual enrollment.

10. A few days of delay resulted from secretarial error in some cases. Itinerant staff delays in expeditious evaluation of some pupils also affected the processing time.

Still, to reduce the enrollment time to 30 days or less for 90% of the pupils was achieved by 40.8% of the pupils by the close of the school term. Therefore Objective 3 was not achieved successfully.

Objective 4: An accepted referral system.

Objective 4 was to provide a referral system for district and special education staff which would be understood and accepted by personnel using the system. These personnel included district administrators and building principals, the I.U. Instructional Advisor, I.U. IEP Coordinator, I.U. IEP Implementors, principals, classroom teachers, and the itinerant special education teachers and therapists. A summary of the results of the questionnaires is presented below. A complete report of the responses is presented in Appendix T.

Fifty questionnaires were mailed to district school administrators and building principals, selected at random, at the close of the school term, effectively reaching the majority of the personnel from all districts utilizing the system. Sixteen responses were returned. However, some responses represented a consensus of the particular district personnel, so more than 16 persons' responses were represented. All of the responses were positive, accepting and endorsing the program and the newly implemented referral changes. The time element was one negative aspect which was recognized by the administrative personnel in the districts as well as by the Supervisor.

Similar responses came from the classroom teachers. Fifty classroom teachers were chosen at random from all the classroom teacher-user of the Request for Screening/Consultation forms. Twenty three responses were returned from the classroom teacher group. Their specific responses appear in Appendix T. The classroom teachers surveyed felt that the program was valuable and the new direction met the legal requirements, although they emphasized the time lag in enrollment in comparison to previous years. The answers to the questions and the majority of the comments demonstrated success of this objective in the teachers group.

The third group surveyed was the itinerant special education staff, including the Instructional Advisor, IEP Coordinator, IEP Implementors and the teachers and therapists. Again the concerns regarding the time lag for completing the procedural safeguards and the holding of conferences were registered. The general theme of the negative responses focused upon the decrease in time that teachers and teachers were involved in direct instruction time in comparison to previous years. The statistics comparing the dismissal rates of Objective 1 were purposely not announced at that time in order not to introduce a bias in the responses. Although the responses which recognize the time lags are valid, this group did not recognize the fact that the available instructional time was maximized by better planning and greater parent involvement in the program, as demonstrated by the significant increase in the dismissal rate.

Table 5 on the following page provides a summary of the responses, including those considered in measuring the achievement of Objective 4. This information is offered in addition to the detailed data in Appendix T. The goal of Objective 4 was a 90% acceptance level of the new referral system. A 96% acceptance level was achieved, thus this objective was accomplished successfully.

Objective 5: Avenues for feedback.

Objective 5 was to provide avenues for feedback regarding the new procedures from parents, special education staff, and district personnel. The intent of this objective was to gather data for measurement of the procedure as well as to gather ideas for improvement of the itinerant special education programs. Success of this objective was established at a 50% response to the questionnaires sent. Table 5 shows that response to the summative questionnaires was 50.4%. The reader will recall that Table 1 (page 68) indicated a 63% return of the formative evaluation questionnaires. Table 6 on page 90 shows the cumulative response rate of both evaluation questionnaires as 56%, with a total of 341 of the 610 questionnaires having been returned. From this data the Supervisor concluded that Objective 5

Table 5

Responses To Summative Evaluation Questionnaires

Group	Objective 4 General Acceptance of the Referral System		Objective 5 Feedback			Objective 6 a Satisfactory Leadership		Objective 6 b Greater Parental Involvement	
	# Pos.	% Pos.	Number Sent	Number Returned	Percent Returned	# Pos.	% Pos.	# Pos.	% Pos.
District Administrators	16/16	100%	50	16	32%*	N/A	N/A	N/A	N/A
Classroom Teachers	20/23	86	50	23	46	N/A	N/A	N/A	N/A
Instructional Advisor	1/1	100	1	1	100	N/A	N/A	N/A	N/A
IEP Coordinator	1/1	100	1	1	100	1/1	100%	N/A	N/A
IEP Implementors	2/2	100	2	2	100	2/2	100	N/A	N/A
Itinerant Staff	33/33	100	33	33	100	33/33	100	19/23	82.6%
Parents	N/A	N/A	200	94	47	N/A	N/A	60/94	63.8
Totals	73/76	96%	337	170	50.4%*	36/36	100%	79/117	67.5%

*An undetermined number of administrative personnel reportedly combined their responses onto a single reply. Thus the exact percentage of persons responding cannot be determined.

Table 6

Responses to the Formative and Summative Evaluation Questionnaires

Group	Formative and Summative Number Sent	Formative and Summative Number Returned	Percentage of Return
District Administrators	111	51	46%*
Classroom Teachers	125	64	51
Special Education Itinerant Personnel	67	63	94
Instructional Advisor IEP Coordinator IEP Implementors	7	7	100
Parents of Pupils in Programs	300	156	52
Total of Groups	610	341	56%*

*An undetermined number of administrative personnel reportedly combined their responses onto a single reply. Thus the exact percentage of persons responding cannot be determined.

was accomplished successfully, since the goal of 50% response to the questionnaires was exceeded.

Objective 6: Provide leadership to the itinerant special education staff and achieve increased parental involvement.

This objective was divided into two related parts. Objective 6a was to provide leadership and program direction to the itinerant special education staff promote an understanding and acceptance of the program modifications. An 85% level of acceptance was established as the goal for successful achievement of Objective 6a.

The summative questionnaires indicated that 100% of the Intermediate Unit personnel in the Supervisor's charge responded positively when asked, "Do you feel that you had adequate background information and in-service to prepare you for our new procedures?" and "Do you feel that you had adequate and appropriate support?" A breakdown of the 36 responses is shown in Table 5, under Objective 6a. Since a level of 85% satisfaction was established as the goal for success in this objective, the objective was accomplished successfully.

Objective 6b was to extend the enthusiasm and interest from the Supervisor, through the staff members, via acceptable in-service presentations, to result in greater positive therapist/teacher/parent involvement in the programs. An 85% response of greater and positive involvement was established as the goal for successful accomplishment of Objective 6a. Of the 31 itinerant personnel responding to Question 5f on their questionnaire, inquiring about an increase of parental participation, 23 persons who were employed the previous year were the individuals who could make this comparison. Of that number, 4 or 17% reported "no increase" in parental involvement, while 82.6% reported varying degrees of increase of parental involvement in the programs. Sixty four percent of the parents answering the question felt that the increased parent involvement in the program would result in greater progress for the child; 11% felt that it would not; and 25% responded "don't know."

Table 5 reports a breakdown of the responses for Objective 6b. Seventy nine of the 117 persons who responded to the question regarding greater therapist/teacher/parent involvement answered positively for a resultant 67.5% achievement rate of the objective. Since 85% was established as the goal for achievement of the objective, Objective 6b was not accomplished successfully.

Objective 7: Transportability.

Objective 7 was to provide for transportability of the procedures, with necessary modifications, to other programs in the Intermediate Unit and other units in the state. To this end, informal discussions kept other Intermediate Unit personnel in special education programs apprised of the developments of the project's goals and progress throughout the year. Additionally, presentations were made at formal Intermediate Unit-district contact persons meetings. On June 19, 1978, the Supervisor addressed the three other program supervisors, four other instructional advisors, two home-school visitors, and the IEP Coordinator in a lengthy, detailed descriptive review of this project. The goal of this presentation was to determine the applicable aspects of the project which dealt with an itinerant situation and begin to apply them to the classroom special education programs (See Appendix M).

Following the development of the rough draft procedures for special education processing of classroom pupils, another meeting will be held. It will include eight psychologist and six IEP Implementors, in addition to the personnel who attended the former meeting.

Communication has also taken place with three other intermediate units to date, regarding a description of the processing procedure, including the flowcharts, the tracking system, and the Action Request concepts. A written description, with samples of the charts, forms, and procedures utilized, and an indication of the educational success which was experienced, will be prepared and made available to the 28 other intermediate units, the Pennsylvania Department of Education, and, in limited quantity, to any other interested educational agency that is a potential user of this type of procedure.

Summary of the Achievement of Practicum Objectives

Table 7, presented on the following page, indicates in capsule form the pre-practicum status, the practicum goals, the post-practicum status, and an indication of whether or not each stated practicum objective was achieved. To summarize, five of the seven established objectives were accomplished successfully. Additionally, one of the two parts of Objective 6 was accomplished successfully.

Goal-free Evaluation

In addition to the valuable information received in the questionnaires pertainent to the specific objectives, during the year other side-effects of the new procedures in the itinerant programs were frequently discussed. Data from reports and comments

Table 7

A Summary of Achievement of Practicum Objectives

Stated Objective	Pre-Practicum Status*	Practicum Goal	Post-Practicum Status	Objective Met ?
1. Increase program dismissal rate by 10%	15%	25%	26.9%	YES
2. Compliance with new State Standards and P.L. 94-142	Non-compliance	Compliance	100.0%	YES
a. procedural safeguards	NO	YES	100.0	
b. permission to eval.	NO	YES	100.0	
c. eval. of 2 tests min.	NO	YES	100.0	
d. written invitation	NO	YES	100.0	
e. planning conferences	NO	YES	100.0	
f. written IEP	NO	YES	100.0	
3. Pupil enrollment within 30 days	NO	90%	21.3%	NO
4. Provide a new acceptable referral system	NO	90%	96.0%	YES
5. Provide for feedback	NO	50%	55.0%	YES
6. Provide in-service mtgs. for satisfactory changes	NO	a. 85%	91.9%	YES
		b. 85%	67.5%	NO
7. Provide transportability	N/A	YES	YES	YES

*Under new standards conforming to P.L. 94-142 from the questionnaires captured observations of persons in the various groups surveyed. These observations yielded interesting information. In addition to the feeling already cited, some interesting reactions are noted here. The reader is encouraged to review the complete results of the surveys which are reproduced in Appendix T.

An analysis of the requests for screening.

An analysis of the requests for screening and the resultant need for referral of pupils is indicated in Table 8 on the following page. A breakdown of the data is provided by month. The table indicates the variance, by month, of the number of pupils screened, and also the number of pupils that required subsequent formal evaluation. Conclusions that are drawn from this data include:

1. Eventhough the new processing procedure was announced and described to district personnel in personal meetings and in written form, teachers did not begin requesting screenings in large numbers until October. Many of the 328 pupils were second grade pupils for whom teachers anticipated the traditional September second grade screening which was eliminated in the project year.
2. Interestingly, the number of requests for screening increased significantly in June. Perhaps teachers still were anticipating more direct itinerant-initiated involvement during the year, and reacted in June, in the last two weeks of school, with more teacher initiative.

Table 8

Pupils Screened And Recommended For Referral - By Month

Month	Number Of Teachers Requesting Screening	Number of Pupils Screened	Number of Pupils Requiring Referral	Percentage Requiring Referral
September	95	306	153	50.0
October	328	905	368	40.6
November	56	97	55	56.7
December	27	48	30	62.5
January	21	32	17	53.1
February	16	20	16	80.0
March	23	31	16	51.6
April	6	9	3	33.3
May	9	14	11	78.6
June	24	81	72	88.9
Total	605	1543	741	48.0

3. A varied, but obvious growth in teacher ability to judge pupils with speech, hearing, or vision problems was concluded by determining percentages of pupils for whom the teachers felt the necessity for screening, and those that actually required speech, hearing, or vision evaluations, as determined by an itinerant special education teacher/therapist. The graph, Figure 5, is presented on the following page to illustrate this growth in teacher accuracy. It suggests an increasing success in the in-service efforts for classroom teachers on individual and faculty bases by the itinerant special education personnel. It also emphasizes the value of the consultation that complemented the screening procedures.

Side-effects: Responses from district personnel.

From responses of district administrative personnel and building principals, goal free side-effects were observed. The project provided an efficient time saving advantage for districts. District personnel felt that there was an improvement in the delivery of instruction in the itinerant special education programs, and that some interest of the parents would generalize from the itinerant special education program to the regular education setting. Less effect was noted by the administrative personnel regarding improvements in the pupils' personality or social relationships. Administrators indicated a definite increase in closer parent to special education teacher

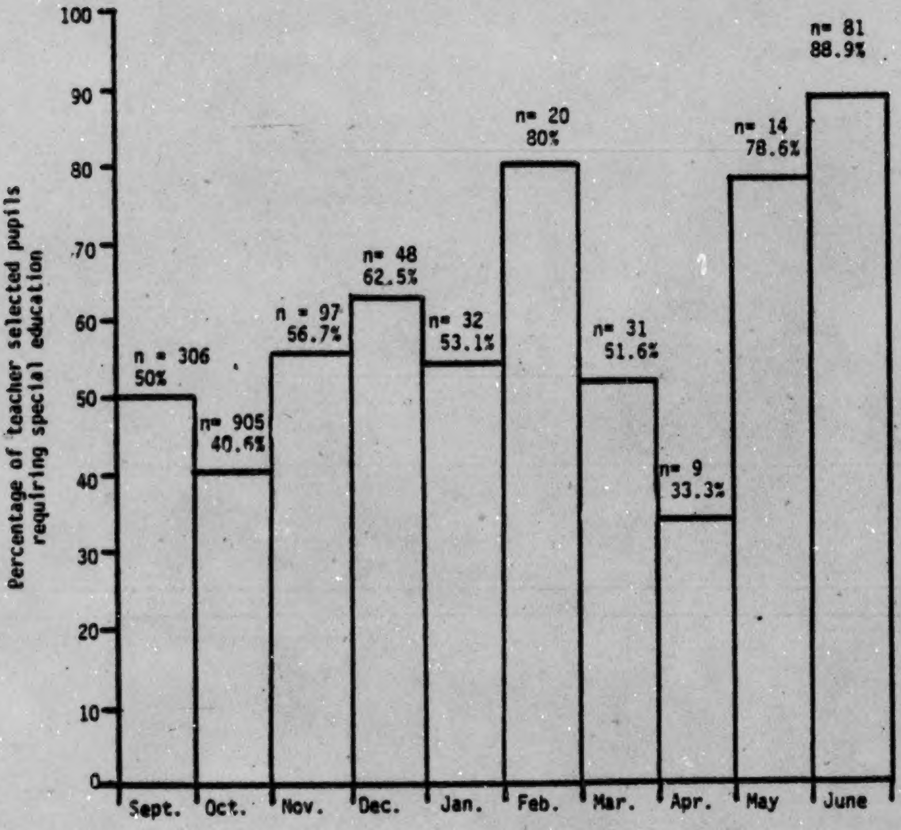

Figure 5

Growth In Teacher Accuracy In Judging With Speech, Hearing Or Vision Problems relationship due to the new procedures implemented in the project year.

The teachers surveyed had similarly interesting comments. They related interest in working more closely with the itinerant personnel and being involved in the screening process. The teachers, understandably, were not aware of the details of the administrative paperwork necessary to process the pupils into the programs, but they felt that a long time period passed prior to the start of the instruction. There was a general feeling of increased teacher-specialist communication that is expected to continue to grow in future years.

Teachers reportedly did not see a significant increase in parent interest in regular education because of great involvement in the special education program, nor was a great improvement in the pupils' personality or social relationships observed. Teachers did notice a significant parent to special edcuation teacher/therapist relationship growth during the project year. Teachers were receptive to and encouraged more in-service programs and workshops to increase the value of the programs further.

Side-effects: Responses from the Intermediate Unit personnel.

The Instructional Advisor, IEP Coordinator, and two IEP Implementors pointed out some specific interesting features of the project year. They felt that the public relations efforts should continue to be stressed in the future. Positive features consisted of the growing interest and cooperation in the efforts, by the districts, toward program involvement. Negative comments centered upon the apparent waste of time spent away from instruction that went toward the completion of paperwork, and the "red tape" needed to assure proper compliance with the law, accurate and proper planning, and recordkeeping on the part of the Intermediate Unit.

The itinerant special eduation speech and hearing therapists and teachers of the visually limited supplied addidtional information regarding the project year. Seventy five percent of the staff tended to over-program for their pupils, indicating higher expectations over the school year. It may be concluded that the high expectations written into the IEPs also were responsible for the success resulting in the higher dismissal rate during the project year.

Seventy percent fo the staff indicated that the IEP process helped them to organize their program better. However, the percentages varied widely among programs. Seventy three percent of the speech therapists felt there was more organization in their plans, while 100% of the hearing therapist registered a positive feeling. On the other hand, only 20% of the teachers of the visually limited felt that it helped them to organize their program.

When asked about the value of the IEPs as related to pupil progress, 66% indicated that IEPs did not help the pupil progress. Only slightly more than half, 58%, indicated that the parent conferences helped the pupils' progress.

According to the itinerants, the new procedure employed did not improve the instruction delivery or result in overall school achievement by pupils. Itinerant personnel did not see any significant side effect regarding improvemetn in pupils' personality or social relationships. There was a recognition of a significant increase in relationships between parents and itinerant personnel, although only a slight increase in parent participation was registered.

Two additional factors were offered as being significant. Required team staffings were recognized by one teacher of the visually limited as resulting in great improvement. Great improvement in communication with district personnel was suggested by one hearing therapist. These comments were initiated totally by the staff members.

In general, comments of many itinerant staff members continued to not the time taken away from direct instruction with pupils. After passing that piont there was a positive feeling that the assistance of hte IEP Implementors and the Supervisor were provided in an appropriate manner, including the overall program organization. The individual statements in this regard are presented in Appendix N.

Side-Effects: Responses from parents.

The reactions of the parents provided data for interesting conclusions. Over 75% of the parents who responded to a question regarding school achievement indicated that they felt there was a significant amount of overall achievement in their child in school due to the program modifications.

Over 70% of the parents who answered the question regarding attitude improvement felt that there was a significant improvement in the pupils' attitude toward school. Over 80% of the parents who responded to the question on personality felt that there was a significant improvement in the pupils' personality.

Over 80% of the parents who responded to the question regarding improvement in social relationships indicated that there was a significant improvement in that area. Over 80% of the parents who responded to the question about an improvement in relationships between the parents and teacher/therapist indicated a significant improvement in the relationships. In fact, the mode of the responses indicated "great improvement" in this aspect. The actual comments, and additional comments, pro and con, are reprinted in Appendix T.

Regional Review by the Pennsylvania Department of Education.

During the 1977-1978 school year the Pennsylvania Department of Education established a regional review system in which a reviewer made on-site visits each week for the purpose of reviewing due process procedures, IEP documents, and other pertainent items to assure compliance with the law. During these visits the reviewer reviewed 11 speech and language program IEPs, 5 hearing impaired IEPs, and 2 visually impaired IEPs at random. All 18 IEPs were found to be in compliance with the law (See Appendix Q for a copy of this report).

Summary

In sum, the practicum was designed to deal with an area of specific need within the public school system. It was intended to clearly indicate a value of the procedures for processing large numbers of pupils into itinerant special education programs and utilize the available time in instruction in the most effective manner, thus maximizing the instructional time in the itinerant setting. Further, compliance with Public Law 94-142 and the Pennsylvania Department of Education Program Standards were integrated into the goal.

The evaluative information generally supported positive outcomes. Mnay persons in the numerous categorical groups surveyed were opposed to the mandates of the Public Law. However, when that concept was accepted as "inevetable," the values of the procedures presented in this practicum were appreciated and the goals were realized.

The program, with the new procedures in place, provided for greater accountability, more parent involvement in the program, and results in more positive feelings toward the program by parents, teachers, and administrators. Pupils progressed to a greater extent under the new program than under the previous years' program, with the same basic criteria for dismissal (program completion) applied. Compliance with the new law was also achieved. It is not feasible to determine the respective value of each new factor introduced during the year. Suffice to conclude that while delays in initiating instruction due to the complexity of the new procedures were common and complaints abounded, pupil achievement exceeded that of the previous years in many ways and compliance with P.L. 94-142 was attained.

For the Supervisor of the program, the practicum provided an opportunity for excellent experiences for professional growth in areas including direct supervision, management control, problem analysis, planning and organizing, use of delegation, coordination and use of resources, and policy development.

For the program the practicum provided new direction, valuable growth, and renewed recogniton of the accomplishments (See Appendix U for letters of the practicum observers).

Chapter XII

TRANSPORTABILITY

Further applications of the procedures that have been developed and implemented are potentially widespread. Other special education programs in the Intermediate Unit are at this time utilizing portions of the procedures in their efforts to expedite the paperwork, to provide accountability, and move pupils into and out of special education programs expeditiously.

These procedures should be applicable, directly or indirectly, to similar special education programs searching for ways to comply with the P.L. 94-142 mandates. Reference to the sample forms utilized, the written procedures and the flowcharts presented in the Appendices should be helpful also.

Chapter XI

INSTITUTIONALIZATION

The procedures described in the previous chapter of this report have been implemented into the itinerant special education speech, hearing, and vision programs in the Conlonial Northampton Intermediate Unit Number 20. These new procedures will continue to be in effect as an integral part of the itinerant special education programs. Funding has been awarded for the 1978-1979 school year (See Appendix R). Under P.L. 94-142 funding to implement the Act will continue indefinitely.

GLOSSARY

Hearing Evaluation - An evaluation that includes air and bone conduction pure tone testing, and impedance audiometry by special education personnel. Further tests as needed are accomplished by a clinical audiologist and otologist in external centers. Tests of speech and language abilities, auditory discrimination, and lipreading skills and psychological testing also are included in the general battery. Reviews of the pertinent medical and school records and consultation with the nurse, teacher and other appropriate school personnel are integral. The findings of the evaluations serve as a basis for the development of the IEP and the hearing therapy plan.

Hearing Impaired Pupil - A pupil whose hearing loss in the worse ear, ranging from mild (hard of hearing) to profound (deaf), interferes with the development of an adequate communication process and results in failure to achieve full educational and/or social potential.

Hearing Screening - Pure tone air conduction audiometric testing presented at 25dB at 500, 1000, 2000, 4000 and 8000 Hz in sequence to each ear. Failure in the screening occurs when two correct responses out of three presentations are not registered for two or more frequencies at the 25dB levels.

Individual Educational Program (IEP) - A written statement of the current educational levels, specific instructional goals and related services of the pupil. The plan, which the parents are encouraged to help develop, must be reviewed at least once a year for possible revision. Each IEP should contain:

- the pupil's present educational levels.
- annual goals and short term instructional objectives.
- specific educational services to be provided.
- the amount of regular education involvement.
- the date when the program is to begin.
- the duration of the program.
- criterion for determining pupil progress.

IEP Coordinator - A professional special educator responsible for the coordination of services to client groups (special education teachers, regular education teachers, supervisory and administrative personnel, and parents), in an effort to achieve the development of appropriate quality IEPs on each special education pupil.

IEP Implementor - A professional special educator responsible to the program supervisor and IEP Coordinator for assistance to special education teachers and therapist, district personnel and parents. IEP Implementations assist during IEP development conferences to accomplish appropriate IEPs.

Instructional Advisor - A professional special educator who holds state special education supervisory certification. The position is that of assistant to the program supervisor (Supervisor of Education).

Itinerant Special Education Programs - Programs designed to meet specific needs of exceptional pupils. Pupils are generally expected to spend 25% or less of their time in individual or small group instruction sessions with an itinerant special education speech or hearing therapist or teacher of the visually limited. These itinerant personnel travel from school to school on an established schedule, instructing appropriate pupils in the development of special skills in accordance with the Individual Educational Program of each pupil.

Speech Evaluation - The detailed diagnostic testing utilizing at least two recognized tests or methods for determining specific speech and language needs. Evaluations also may include audiometric testing, observation of the pupil in the classroom setting, a review of pertinent educational and health recores, and external agency reports. The findings of the speech evaluation serve as a basis for the development of the IEP and the program of therapy.

Special Education - A program designed to meet the specific educational needs of exceptional pupils. In the itinerant programs discussed in this report, special education includes the speech therapy program, the hearing therapy program, and instruction for the visually limited.

Speech (and Language) Impaired - Pupils who are speech and language impaired have communication disorders of impaired articulation, voice, fluency, or language which interfere with the academic achievement or social adjustment of the pupil, thereby creating a handicapping condition.

Speech Screening - A rapid assessment of a pupil's speech and language abilities, based on a short sample of spontaneous speech and/or specific screening test(s). Speech screening is presented individually to groups of pupils. Pupils whose development does not meet age norms or other "normal" standards should be referred for full spedch and/or language evaluations.

Vision Evaluation - Testing which includes low vision acuity tests, tests for impaired field of vision, color deficiency and orientation and mobility skills accomplished by special education personnel. Additional reports, including psychological testing information, school medical and educational achievement and vision reports from external sources also are included. This information serves as a basis for the development of the IEP and the itinerant instruction plan.

Visually Limited/Visually Impaired - Pupils whose vision impairment adversely affects their educational achievement are termed Visually Limited or Visually Impaired. Generally this category involves a corrected acuity of 20/70 or worse in the better eye, or a restricted visual field.

Vision Screening - Involvement with the school nurse in duplicating her questioned results of Snellen Chart or "Titmus Vision Tester" testing upon her request. Referrals are requested on pupils who require additional specific testing.

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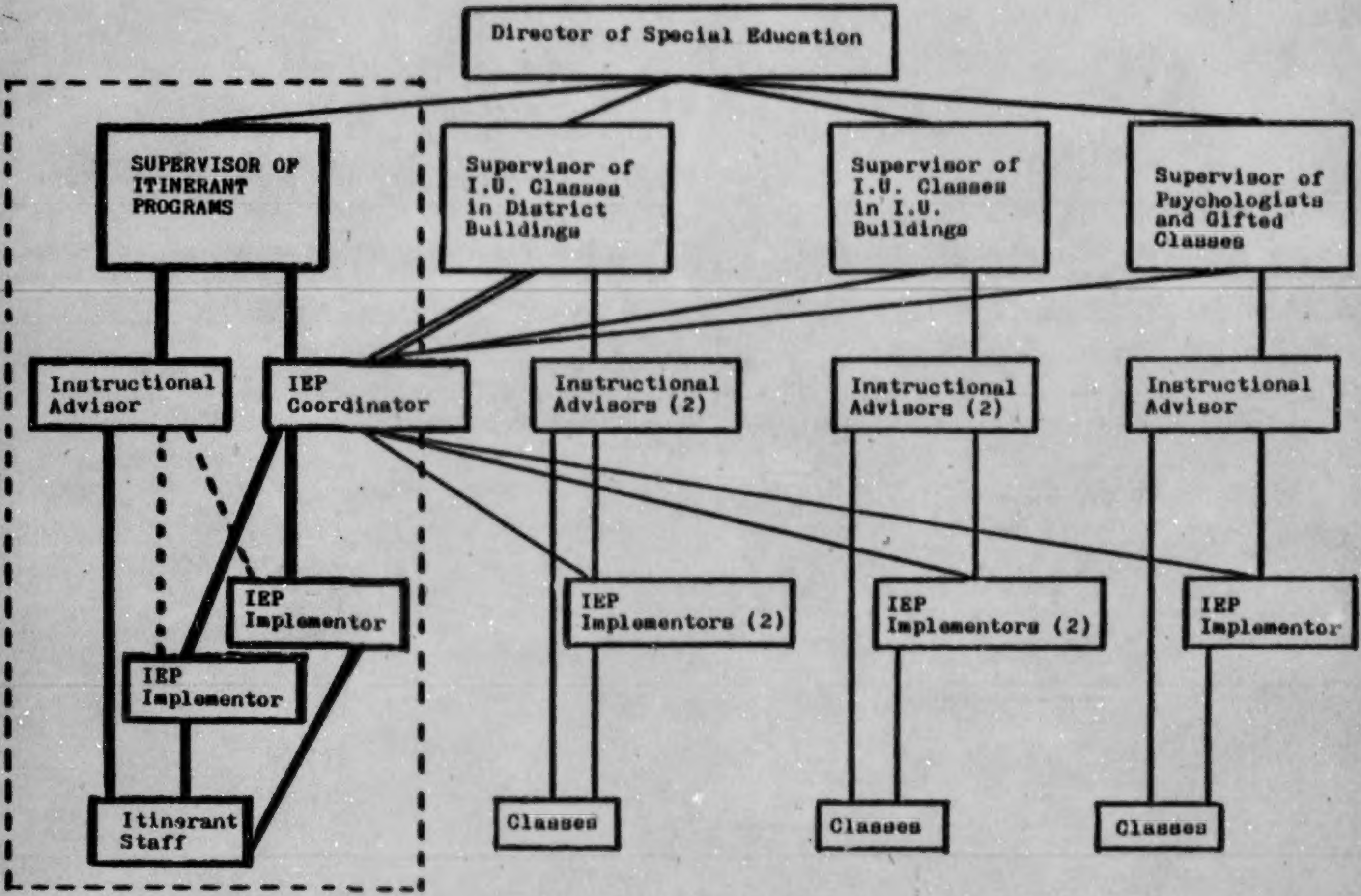
APPENDIX A

SPECIAL EDUCATION BASIC ORGANIZATIONAL CHART IN INTERMEDIATE UNIT 20


Director of Special Education
SUPERVISOR OF ITINERANT PROGRAMS
Supervisor of I.U. Classes in District Buildings
Supervisor of I.U. Classes in I.U. Buildings
Supervisor of Psychologists and Gifted Classes
Instructional Advisor
IEP Coordinator
Instructional Advisors (2)
Instructional Advisors (2)
Instructional Advisor
IEP Implementor
IEP Implementor
IEP Implementors (2)
IEP Implementors (2)
IEP Implementor
Itinerant Staff
Classes
Classes
Classes

Special Education Basic Organizational Chart

APPENDIX B

INFORMATION REGARDING DISTRICTS IN INTERMEDIATE UNIT 20

Page

Enrollment of Districts....................................120

Distribution of District Personnel.........................121

ENROLLMENT OF DISTRICTS IN INTERMEDIATE UNIT NUMBER 20

Source: 1977-1978 September Enrollment

School District	Elementary Enrollment	Secondary Enrollment	Total Enrollment
Bangor	1,441	1,501	2,942
*Bethlehem	7,177	7,878	15,055
Delaware Valley	908	911	1,819
Easton	4,347	4,034	8,381
East Stroudsburg	1,354	1,322	2,676
Nazareth	1,621	1,676	3,297
*Northampton	3,228	3,002	6,230
Pen Argyl	1,001	936	1,964
Pleasant Valley	1,236	996	2,232
Pocono Mountain	1.711	1,804	3,515
Saucon Valley	1,132	1.218	2,350
Stroudsburg	1,828	1,657	3,485
Wilson	1,127	1.219	2,346
I. U. Totals	28,111	28,181	56,292

*I. U. itinerant instruction is limited to the Hearing Program and the Vision Program in these districts.

DISTRIBUTION OF DISTRICT PERSONNEL 1977-1978

School District	Schools	Principals	Teachers
Bangor	6	4	146
Bethlehem	26	26	771
Delaware Valley	6	3	101
Easton	10	10	407
East Stroudsburg	6	5	134
Nazareth	6	6	148
Northampton	8	7	282
Pen Argyl	3	3	108
Pleasant Valley	5	3	103
Pocono Mountain	6	4	191
Saucon Valley	5	4	121
Stroudsburg	6	4	166
Wilson	5	3	153
Total	98	82	2,831

APPENDIX C

SELECTED CORRESPONDENCE REGARDING P.L. 94-142

Page

Memorandum from Pennsylvania Department of Education, June 22, 1977 123

Western Union - Telex TWX Letter from Pennsylvania Department of Education, August 30, 1977 124

Letter from U.S. Department of Health, Education, and Welfare to Chief State School Officers, November 9, 1977 126

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

November 9, 1977

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Our Reference: DAS Bulletin #3

INFORMAL LETTER TO CHIEF STATE SCHOOL OFFICERS

Subject: Final Regulations Under Part B, EHA, As Amended by P.L. 94-142

1. The purpose of this letter is to bring to your attention the fact (a) that the final regulations under Part B, EHA, as amended by P.L. 94-142, have been in effect since October 1, 1977, and (b) that all requirements must be implemented by every public agency in the State as of the effective date of the regulations.

2. It is important for you to take immediate steps to bring this matter to the attention of all local educational agencies and other public agencies in your State that are involved in the education of handicapped children.

3. We will be contacting each of you in the near future regarding any concern in implementing these new requirements.

4. If you have any questions about this letter, or if we can be helpful to your State in fullfilling the requirements of the final regulations, please let us know.

Sincerely yours,

Edwin W. Martin
Deputy Commissioner
Bureau of Education for the
Handicapped

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NOV [illegible] 1977
BUREAU OF SPECIAL AND
COMPENSATORY EDUCATION

cc: State Directors of Special Education
Part B Coordinators

APPENDIX D

LEGAL DOCUMENTS AND DIRECTIVES

Page

Public Law 94-142: Education for all Handicapped Children Act of 1975 128

Final Regulations - Implementation of Part B of the Education of the Handicapped Act, Federal Register, August 23, 1977 141

Regulations of the State Board of Education of Pennsylvania, Chapter 13, Special Education 187

Standards for Special Education Programs. Pennsylvania Bulletin, October 1, 1977 204

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Procedural Safeguards and Procedures for Individualized Education Program Plans for Exceptional School-Aged Persons, Pennsylvania Department of Education Basic Education Circular 42-77, September 30, 1977 214

Public Law 94-142
94th Congress, S. 6
November 29, 1975

An Act

To amend the Education of the Handicapped Act to provide educational assistance to all handicapped children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for All Handicapped Children Act of 1975".

Education for All Handicapped Children Act of 1975. 20 USC 1401 note.

EXTENSION OF EXISTING LAW

SEC. 2. (a)(1)(A) Section 611(b)(2) of the Education of the Handicapped Act (20 U.S.C. 1411(b)(2)) (hereinafter in this Act referred to as the "Act"), as in effect during the fiscal years 1976 and 1977, is amended by striking out "the Commonwealth of Puerto Rico,".

(B) Section 611(c)(1) of the Act (20 U.S.C. 1411(c)(1)), as in effect during the fiscal years 1976 and 1977, is amended by striking out "the Commonwealth of Puerto Rico,".

(2) Section 611(c)(2) of the Act (20 U.S.C. 1411(c)(2)), as in effect during the fiscal years 1976 and 1977, is amended by striking out "year ending June 30, 1975" and inserting in lieu thereof the following: "years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977", and by striking out "2 per centum" each place it appears therein and inserting in lieu thereof "1 per centum".

(3) Section 611(d) of the Act (20 U.S.C. 1411(d)), as in effect during the fiscal years 1976 and 1977, is amended by striking out "year ending June 30, 1975" and inserting in lieu thereof the following: "years ending June 30, 1975, and 1976, and for the fiscal year ending September 30, 1977".

(4) Section 612(a) of the Act (20 U.S.C. 1412(a)), as in effect during the fiscal years 1976 and 1977, is amended—

(A) by striking out "year ending June 30, 1975" and inserting in lieu thereof "years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977"; and

(B) by striking out "fiscal year 1974" and inserting in lieu thereof "preceding fiscal year".

(b)(1) Section 614(a) of the Education Amendments of 1974 (Public Law 93-380; 88 Stat. 580) is amended by striking out "fiscal year 1975" and inserting in lieu thereof the following: "the fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977,".

20 USC 1411 note.

(2) Section 614(b) of the Education Amendments of 1974 (Public Law 93-380; 88 Stat. 580) is amended by striking out "fiscal year 1974" and inserting in lieu thereof the following: "the fiscal years ending June 30. 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977,".

20 USC 1411 note.

20 USC 1413 note.

(3) Section 614(c) of the Education Amendments of 1974 (Public Law 93-380; 88 Stat. 580) is amended by striking out “fiscal year 1974” and inserting in lieu thereof the following: “the fiscal years ending June 30, 1975, and 1976, for the period beginning July 1, 1976, and ending September 30, 1976, and for the fiscal year ending September 30, 1977,”.

Ante, p. 773.

(c) Section 612(a) of the Act, as in effect during the fiscal years 1976 and 1977, and as amended by subsection (a)(4), is amended by inserting immediately before the period at the end thereof the following: “, or $300,000, whichever is greater”.

20 USC 1412.

(d) Section 612 of the Act (20 U.S.C. 1411), as in effect during the fiscal years 1976 and 1977, is amended by adding at the end thereof the following new subsection:

Publication in Federal Register.

“(d) The Commissioner shall, no later than one hundred twenty days after the date of the enactment of the Education for All Handicapped Children Act of 1975, prescribe and publish in the Federal Register such rules as he considers necessary to carry out the provisions of this section and section 611.”.

Ante, p. 773.
20 USC 1411 note.

(e) Notwithstanding the provisions of section 611 of the Act, as in effect during the fiscal years 1976 and 1977, there are authorized to be appropriated $100,000,000 for the fiscal year 1976, such sums as may be necessary for the period beginning July 1, 1976, and ending September 30, 1976, and $200,000,000 for the fiscal year 1977, to carry out the provisions of part B of the Act, as in effect during such fiscal years.

STATEMENT OF FINDINGS AND PURPOSE

20 USC 1401 note.

SEC. 3. (a) Section 601 of the Act (20 U.S.C. 1401) is amended by inserting “(a)” immediately before “This title” and by adding at the end thereof the following new subsections:

“(b) The Congress finds that—

“(1) there are more than eight million handicapped children in the United States today;

“(2) the special educational needs of such children are not being fully met;

“(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

“(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

“(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

“(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

“(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

“(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

“(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

“(c) It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.”.

Ante, p. 773.

(b) The heading for section 601 of the Act (20 U.S.C. 1401) is amended to read as follows:

“SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE”.

DEFINITIONS

20 USC 1401.

SEC. 4. (a) Section 602 of the Act (20 U.S.C. 1402) is amended—

(1) in paragraph (1) thereof, by striking out “crippled” and inserting in lieu thereof “orthopedically impaired”, and by inserting immediately after “impaired children” the following: “, or children with specific learning disabilities,”;

(2) in paragraph (5) thereof, by inserting immediately after “instructional materials,” the following: “telecommunications, sensory, and other technological aids and devices,”;

(3) in the last sentence of paragraph (15) thereof, by inserting immediately after “environmental” the following: “, cultural, or economic”; and

(4) by adding at the end thereof the following new paragraphs:

“(16) The term ‘special education’ means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

“(17) The term ‘related services’ means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

“(18) The term ‘free appropriate public education’ means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 614(a)(5).

"(19) The term 'individualized education program' means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

"(20) The term 'excess costs' means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this part or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this part or under such titles.

20 USC 241a note, 881.

"(21) The term 'native language' has the meaning given that term by section 703(a)(2) of the Bilingual Education Act (20 U.S.C. 880b-1(a)(2)).

"(22) The term 'intermediate educational unit' means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to handicapped children within that State.".

(b) The heading for section 602 of the Act (20 U.S.C. 1402) is amended to read as follows:

"DEFINITIONS".

ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

SEC. 5. (a) Part B of the Act (20 U.S.C. 1411 et seq.) is amended to read as follows:

"PART B—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

"ENTITLEMENTS AND ALLOCATIONS

20 USC 1411. Post, p. 793.

"SEC. 611. (a)(1) Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a State is entitled under this part for any fiscal year shall be equal to—

"(A) the number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services;

multiplied by—

"(B)(i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

"(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

"(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

"(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

"(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this part for the fiscal year ending September 30, 1977.

"(2) For the purpose of this subsection and subsection (b) through subsection (e), the term 'State' does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. "State."

"(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made.

"(4) For purposes of paragraph (1)(B), the term 'average per pupil expenditure', in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year. "Average per pupil expenditure."

"(5)(A) In determining the allotment of each State under paragraph (1), the Commissioner may not count—

"(i) handicapped children in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State;

"(ii) as part of such percentage, children with specific learning disabilities to the extent the number of such children is greater than one-sixth of such percentage; and 130

"(iii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965. 20 USC 241c-1.

"(B) For purposes of subparagraph (A), the number of children aged five to seventeen, inclusive, in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(b)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1978—

"(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

"(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 612(3).

"(2) Of the funds which any State may use under paragraph (1)(A)—

"(A) an amount which is equal to the greater of—

"(i) 5 per centum of the total amount of funds received under this part by such State; or

"(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 612 and 613;

"(B) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3).

"(c)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

"(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

"(B) except as provided in paragraph (3), 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 612(3).

"(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

"(i) an amount which is equal to the greater of—

"(I) 5 per centum of the total amount of funds received under this part by such State; or

"(II) $200,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 612 and 613; and

"(ii) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3).

"(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

"(3) The provisions of section 613(a)(9) shall not apply with respect to amounts available for use by any State under paragraph (2).

"(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

"(i) such local educational agency or intermediate educational unit is entitled, under subsection (d), to less than $7,500 for such fiscal year; or

"(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 614.

"(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to handicapped children residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

"(d) From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, as the number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this part.

"(e)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Commissioner in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this part for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

Ante, p. 774.

"(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

"(f)(1) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this part for that fiscal year.

"(2) The Secretary of the Interior may receive an allotment under this subsection only after submitting to the Commissioner an application which meets the applicable requirements of section 614(a) and which is approved by the Commissioner. The provisions of section 616 shall apply to any such application.

"(g)(1) If the sums appropriated for any fiscal year for making payments to States under this part are not sufficient to pay in full the total amounts which all States are entitled to receive under this part for such fiscal year, the maximum amounts which all States are entitled to receive under this part for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d), which it estimates that it will expend in accordance with the provisions of this part. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies or intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

"ELIGIBILITY

20 USC 1412. "Sec. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

"(2) The State has developed a plan pursuant to section 613(b) in effect prior to the date of the enactment of the Education for All Handicapped Children Act of 1975 and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

"(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

"(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

"(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(D) policies and procedures are established in accordance with detailed criteria prescribed under section 617(c); and

"(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

"(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

"(4) Each local educational agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 614(a)(5).

"(5) The State has established (A) procedural safeguards as required by section 615, (B) procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

"(6) The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for handicapped children within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency. Administration.

Notice, hearings.

"(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 613.

"STATE PLANS

20 USC 1413.

"Sec. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Commissioner, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

"(1) set forth policies and procedures designed to assure that funds paid to the State under this part will be expended in accordance with the provisions of this part, with particular attention given to the provisions of sections 611(b), 611(c), 611(d), 612(2), and 612(3);

"(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-2), section 305(b)(8) of such Act (20 U.S.C. 844a(b)(8)) or its successor authority, and section 122(a)(4)(B) of the Vocational Education Act of 1963 (20 U.S.C. 1262(a)(4)(B)), under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

20 USC 241c-1.

"(3) set forth, consistent with the purposes of this Act, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;

"(4) set forth policies and procedures to assure—

"(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services; and

"(B) that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all handicapped children within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

"(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this part for services to any child who is determined to be erroneously classified as eligible to be counted under section 611(a) or section 611(d);

"(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

Reports and records.

"(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this part, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;

Notice, hearings.

"(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

"(9) provide satisfactory assurance that Federal funds made available under this part (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

"(10) provide, consistent with procedures prescribed pursuant to section 617(a)(2), satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

Evaluation.

"(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Commissioner shall prescribe pursuant to section 617; and

State advisory panel.

"(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part, and (C) assists the State in developing and reporting such data and evaluations as may assist the Commissioner in the performance of his responsibilities under section 618.

"(b) Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) as are contained in section 614(a), except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 614(a).

"(c) The Commissioner shall approve any State plan and any modification thereof which—

"(1) is submitted by a State eligible in accordance with section 612; and

"(2) meets the requirements of subsection (a) and subsection (b).

Notice, hearings.

The Commissioner shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

"APPLICATION

20 USC 1414.

"Sec. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

"(1) provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which—

"(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are handicapped, regardless of the severity of their handicap, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

"(B) establish policies and procedures in accordance with detailed criteria prescribed under section 617(c);

"(C) establish a goal of providing full educational opportunities to all handicapped children, including—

"(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 613(a)(3);

"(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all handicapped children, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education;

"(iii) the participation and consultation of the parents or guardian of such children; and

"(iv) to the maximum extent practicable and consistent with the provisions of section 612(5)(B), the provision of special services to enable such children to participate in regular educational programs;

"(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

"(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

"(2) provide satisfactory assurance that (A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this part;

"(3)(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in programs carried out under this part; and

134

Recordkeeping.

"(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);

Public information, availability.

"(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

"(5) provide assurances that the local educational agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

"(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a); and

"(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 612(5)(B), 612(5)(C), and 615.

Application approval.

"(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application meets the requirements of subsection (a), except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) is approved by the Commissioner under section 613(c). A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application does not meet the requirements of subsection (a).

Notice, hearing.

"(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

"(i) make no further payments to such local educational agency or such intermediate educational unit under section 620 until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

"(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a).

"(B) The provisions of the last sentence of section 616(a) shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

"(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 615 which is adverse to the local educational agency or intermediate educational unit involved in such decision.

"(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 611(c)(4)(A)(i) or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

"(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) if an individual application of any such local educational agency had been approved.

Rules and regulations.

"(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

"(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

"(d) Whenever a State educational agency determines that a local educational agency—

"(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

"(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

"(3) has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to handicapped children residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

Funds, reallocation.

"(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d), to such other local educational agencies within the State as are not adequately providing special education and related services to all handicapped children residing in the areas served by such other local educational agencies.

"(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law shall be entitled to receive payments under section 611(d) for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

"PROCEDURAL SAFEGUARDS

20 USC 1415.

"SEC. 615. (a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

"(b)(1) The procedures required by this section shall include, but shall not be limited to—

"(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

"(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

"(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

"(i) proposes to initiate or change, or

"(ii) refuses to initiate or change,

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

"(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

"(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

Hearing.

"(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.

"(c) If the hearing required in paragraph (2) of subsection (b) of this section is conducted by a local educational agency or an intermediate educational unit, any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision upon completion of such review.

"(d) Any party to any hearing conducted pursuant to subsections (b) and (c) shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the advisory panel established pursuant to section 613(a)(12)).

"(e)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

Civil action.

"(2) Any party aggrieved by the findings and decision made under subsection (b) who does not have the right to an appeal under subsection (c), and any party aggrieved by the findings and decision under subsection (c), shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

"(3) During the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents or guardian otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents or guardian, be placed in the public school program until all such proceedings have been completed.

District courts jurisdiction.

"(4) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"WITHHOLDING AND JUDICIAL REVIEW

Notice, hearing.
20 USC 1416.

"SEC. 616. (a) Whenever the Commissioner, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

"(1) that there has been a failure to comply substantially with any provision of section 612 or section 613, or

"(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan,

the Commissioner (A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Commissioner withholds further payments under clause (A) or clause (B) he may determine that such withholding will [illegible] limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate educational units affected by the failure. Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) within his jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

Petition for review.

"(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to its State plan submitted under section 613, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"ADMINISTRATION

"SEC. 617. (a)(1) In carrying out his duties under this part, the Commissioner shall— 20 USC 1417.

"(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this part;

"(B) provide such short-term training programs and institutes as are necessary;

"(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

"(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975, provide certification of the actual number of handicapped children receiving special education and related services in such State.

Regulations.

"(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Commissioner shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting State plans under this part in order to assure equity among the States.

"(b) In carrying out the provisions of this part, the Commissioner (and the Secretary, in carrying out the provisions of subsection (c)) shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

"(c) The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Commissioner and by State and local educational agencies pursuant to the provisions of this part. 20 USC 1232g.

"(d) The Commissioner is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 618 and to carry out his duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time. 5 USC 5101, 5331.

"EVALUATION

"SEC. 618. (a) The Commissioner shall measure and evaluate the impact of the program authorized under this part and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children. 20 USC 1418.

"(b) The Commissioner shall conduct, directly or by grant or contract, such studies, investigations, and evaluations as are necessary to assure effective implementation of this part. In carrying out his responsibilities under this section, the Commissioner shall—

"(1) through the National Center for Education Statistics, provide to the appropriate committees of each House of the Congress and to the general public at least annually, and shall update at least annually, programmatic information concerning programs and projects assisted under this part and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this part, including—

"(A) the number of handicapped children in each State, within each disability, who require special education and related services;

"(B) the number of handicapped children in each State, within each disability, receiving a free appropriate public education and the number of handicapped children who need and are not receiving a free appropriate public education in each such State;

"(C) the number of handicapped children in each State, within each disability, who are participating in regular educational programs, consistent with the requirements of section 612(5)(B) and section 614(a)(1)(C)(iv), and the number of handicapped children who have been placed in separate classes or separate school facilities, or who have been otherwise removed from the regular education environment;

"(D) the number of handicapped children who are enrolled in public or private institutions in each State and who are receiving a free appropriate public education, and the number of handicapped children who are in such institutions and who are not receiving a free appropriate public education;

"(E) the amount of Federal, State, and local expenditures in each State specifically available for special education and related services; and

"(F) the number of personnel, by disability category, employed in the education of handicapped children, and the estimated number of additional personnel needed to adequately carry out the policy established by this Act; and

"(2) provide for the evaluation of programs and projects assisted under this part through—

"(A) the development of effective methods and procedures for evaluation;

"(B) the testing and validation of such evaluation methods and procedures; and

"(C) conducting actual evaluation studies designed to test the effectiveness of such programs and projects.

"(c) In developing and furnishing information under subclause (E) of clause (1) of subsection (b), the Commissioner may base such information upon a sampling of data available from State agencies, including the State educational agencies, and local educational agencies.

Report, transmittal to congressional committees.

"(d)(1) Not later than one hundred twenty days after the close of each fiscal year, the Commissioner shall transmit to the appropriate committees of each House of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a detailed description of all evaluation activities conducted under subsection (b).

Contents.

"(2) The Commissioner shall include in each such report—

"(A) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children in day or residential facilities;

"(B) any recommendations for change in the provisions of this part, or any other Federal law providing support for the education of handicapped children; and

"(C) an evaluation of the effectiveness of the procedures undertaken by each such agency or unit to prevent erroneous classification of children as eligible to be counted under section 611, including actions undertaken by the Commissioner to carry out provisions of this Act relating to such erroneous classification.

In order to carry out such analyses and evaluations, the Commissioner shall conduct a statistically valid survey for assessing the effectiveness of individualized educational programs.

Appropriation authorization.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"INCENTIVE GRANTS

20 USC 1419.

"Sec. 619. (a) The Commissioner shall make a grant to any State which—

"(1) has met the eligibility requirements of section 612;

"(2) has a State plan approved under section 613; and

"(3) provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of section 611(a)(1)(A).

The maximum amount of the grant for each fiscal year which a State may receive under this section shall be $300 for each such child in that State.

"(b) Each State which—

"(1) has met the eligibility requirements of section 612,

"(2) has a State plan approved under section 613, and

"(3) desires to receive a grant under this section,

shall make an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

"(c) The Commissioner shall pay to each State having an application approved under subsection (b) of this section the amount to which the State is entitled under this section, which amount shall be used for the purpose of providing the services specified in clause (3) of subsection (a) of this section.

"(d) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the maximum amounts which all States may receive under this part for such fiscal year, the maximum amounts which all States may receive under this part for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

Appropriation authorization.

"(e) In addition to the sums necessary to pay the entitlements under section 611, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

"PAYMENTS

20 USC 1420.

"Sec. 620. (a) The Commissioner shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b).

"(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Commissioner may determine necessary.".

Regulations. 20 USC 1411 note.

(b) (1) The Commissioner of Education shall, no later than one year after the effective date of this subsection, prescribe—

(A) regulations which establish specific criteria for determining whether a particular disorder or condition may be considered a specific learning disability for purposes of designating children with specific learning disabilities;

(B) regulations which establish and describe diagnostic procedures which shall be used in determining whether a particular child has a disorder or condition which places such child in the category of children with specific learning disabilities; and

(C) regulations which establish monitoring procedures which will be used to determine if State educational agencies, local educational agencies, and intermediate educational units are complying with the criteria established under clause (A) and clause (B).

Proposed regulation, submittal to congressional committees. Publication in Federal Register.

(2) The Commissioner shall submit any proposed regulation written under paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Public Welfare of the Senate, for review and comment by each such committee, at least fifteen days before such regulation is published in the Federal Register.

(3) If the Commissioner determines, as a result of the promulgation of regulations under paragraph (1), that changes are necessary in the definition of the term "children with specific learning disabilities", as such term is defined by section 602(15) of the Act, he shall submit recommendations for legislation with respect to such changes to each House of the Congress. 20 USC 402.

Definitions.

(4) For purposes of this subsection:

(A) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or environmental, cultural, or economic disadvantage.

(B) The term "Commissioner" means the Commissioner of Education.

20 USC 1411.

(c) Effective on the date upon which final regulations prescribed by the Commissioner of Education under subsection (b) take effect, the amendment made by subsection (a) is amended, in subparagraph (A) of section 611(a)(5) (as such subparagraph would take effect on the effective date of subsection (a)), by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

AMENDMENTS WITH RESPECT TO EMPLOYMENT OF HANDICAPPED INDIVIDUALS, REMOVAL OF ARCHITECTURAL BARRIERS, AND MEDIA CENTERS

SEC. 6. (a) Part A of the Act is amended by inserting after section 605 thereof the following new sections: 20 USC 1404.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 606. The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act. 20 USC 1405.

"GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

"SEC. 607. (a) Upon application by any State or local educational agency or intermediate educational unit the Commissioner is authorized to make grants to pay part or all of the cost of altering existing buildings and equipment in the same manner and to the same extent as authorized by the Act approved August 12, 1968 (Public Law 90-480), relating to architectural barriers. 20 USC 1406.

"(b) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.". Appropriation authorization.

(b) Section 653 of the Act (20 U.S.C. 1453) is amended to read as follows:

"CENTERS ON EDUCATIONAL MEDIA AND MATERIALS FOR THE HANDICAPPED

"SEC. 653. (a) The Secretary is authorized to enter into agreements with institutions of higher education, State and local educational agencies, or other appropriate nonprofit agencies, for the establishment and operation of centers on educational media and materials for the handicapped, which together will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing, developing, and adapting instructional materials, and such other activities consistent with the purposes of this part as the Secretary may prescribe in such agreements. Any such agreement shall—

"(1) provide that Federal funds paid to a center will be used solely for such purposes as are set forth in the agreement; and

"(2) authorize the center involved, subject to prior approval by the Secretary, to contract with public and private agencies and organizations for demonstration projects.

"(b) In considering proposals to enter into agreements under this section, the Secretary shall give preference to institutions and agencies—

"(1) which have demonstrated the capabilities necessary for the development and evaluation of educational media for the handicapped; and 139

"(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89-694). 80 Stat. 1027.

"(c) The Secretary shall make an annual report on activities carried out under this section which shall be transmitted to the Congress.". Report to Congress.

CONGRESSIONAL DISAPPROVAL OF REGULATIONS

SEC. 7. (a)(1) Section 431(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)) is amended by inserting "final" immediately before "standard" each place it appears therein.

(2) The third sentence of section 431(d)(2) of such Act (20 U.S.C. 1232(d)(2)) is amended by striking out "proposed" and inserting in lieu thereof "final".

(3) The fourth and last sentences of section 431(d)(2) of such Act (20 U.S.C. 1232(d)(2)) each are amended by inserting "final" immediately before "standard".

(b) Section 431(d)(1) of the General Education Provisions Act (20 U.S.C. 1232(d)(1)) is amended by adding at the end thereof the following new sentence: "Failure of the Congress to adopt such a concurrent resolution with respect to any such final standard, rule, regulation, or requirement prescribed under any such Act, shall not represent, with respect to such final standard, rule, regulation, or requirement, an approval or finding of consistency with the Act from which it derives its authority for any purpose, nor shall such failure to adopt a concurrent resolution be construed as evidence of an approval or finding of consistency necessary to establish a prima facie case, or an inference or presumption, in any judicial proceeding.".

EFFECTIVE DATES

20 USC 1411 note.

SEC. 8. (a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) shall take effect on July 1, 1975.

(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 shall take effect on the date of the enactment of this Act.

(c) The amendments made by sections 4 and 5(a) shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act, as amended by this Act, section 617(a)(1)(D) of the Act, as amended by this Act, section 617(b) of the Act, as amended by this Act, and section 618(a) of the Act, as amended by this Act, shall take effect on the date of the enactment of this Act.

(d) The provisions of section 5(b) shall take effect on the date of the enactment of this Act.

Approved November 29, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-332 accompanying H.R. 7217 (Comm. on Education and Labor) and 94-664 (Comm. of Conference).
SENATE REPORTS: No. 94-168 (Comm. on Labor and Public Welfare) and No. 94-455 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 121 (1975):
June 18, considered and passed Senate.
July 21, 29, considered and passed House, amended, in lieu of H.R. 7217.
Nov. 18, House agreed to conference report.
Nov. 19, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 11, No. 49:
Dec. 2, Presidential statement.

federal register

TUESDAY, AUGUST 23, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EDUCATION OF HANDICAPPED CHILDREN

Implementation of Part B of the Education of the Handicapped Act

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

EDUCATION OF HANDICAPPED CHILDREN

Implementation of Part B of the Education of the Handicapped Act

AGENCY: U.S. Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: These regulations implement amendments to Part B of the Education of the Handicapped Act (as required by the Education for All Handicapped Children Act of 1975) by: (1) amending the existing regulations governing assistance to States for education of handicapped children, (2) adding a new part on incentive grants programs for handicapped children aged three through five, and (3) making certain conforming amendments to the general provisions for State-administered programs.

These regulations govern the provision of formula grant funds to State and local educational agencies to assist them in the education of handicapped children.

The regulations include provisions which are designed (1) to assure that all handicapped children have available to them a free appropriate public education; (2) to assure that the rights of handicapped children and their parents are protected; (3) to assist States and localities to provide for the education of handicapped children; and (4) to assess and assure the effectiveness of efforts to educate such children.

These regulations also include the final rules for counting and reporting handicapped children. (The child count rules were published in proposed form on September 8, 1976, and were incorporated into the December 30 proposed regulations for the convenience of the reader.)

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel Ringelheim, Director, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Ave. SW., (room 4046 Donohoe Building), Washington, D.C. 20202, telephone: 202-472-2265;

or

Thomas B. Irvin, Policy Officer, Bureau of Education for the Handicapped, 400 Maryland Ave. SW., (room 4926 Donohoe Building), Washington, D.C. 20202, telephone: 202-245-9405.

SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY—PUBLIC PARTICIPATION

Because of the potential impact that Pub. L. 94-142 will have on the education of handicapped children throughout the Nation, and on the agencies that serve them, the Office of Education recognized the need for intensive public participation in the development of regulations, and took steps to insure maximum public involvement throughout the entire rulemaking process. A description of these steps is included in the following paragraphs:

Before the proposed rules were drafted, the Office of Education carried out a massive effort to obtain comments and suggestions for developing regulations from interested parties throughout the Nation. This involved participating in approximately 20 meetings about the law conducted on both a geographic and special interest basis. Approximately 2,200 people participated in these meetings and several hundred comments were received.

In June 1976, the Office of Education convened a national writing group of approximately 170 people to develop concept papers for use in writing the regulations. This group was composed of parents, representatives of special interest organizations (i.e., AFT, NEA, private schools), and administrators of State and local schools. These concept papers formed the basis for the proposed regulations.

During the months of July–November, the Office of Education prepared several redrafts of the concept papers and continued to seek inputs on these drafts from various interested parties.

On December 30, 1976, the proposed rules were published in the FEDERAL REGISTER. Written comments and recommendations on the proposed rules were invited for a 60-day comment period ending March 1, 1977; and public hearings were held in Washington, San Francisco, Denver, Chicago, Boston, and Atlanta. Over 1,600 written comments were received during that period, all of which were reviewed and considered by the Office of Education in preparing these final regulations.

The tapes of the hearings and copies of written comments are available for public inspection at the Bureau of Education for the Handicapped, room 4921, Donohoe Building, 400 6th Street SW., Washington, D.C. 20202.

In addition to the above public comment activities, the Office of Education continued with other public participation efforts, including:

(1) Participating in 10 regional meetings of the American Association of School Administrators and other regional meetings with the Council of the Great City Schools;

(2) Conducting a national conference on the regulations for administrators of various State agency programs for the handicapped, and participating in meetings at other national conferences; and

(3) Participating in a special series of meetings organized by the Institute for Educational Leadership and composed of representatives of the National Governors' Conference, the National Conference of State Legislatures, the National Association of State Boards of Education, and the Education Commission of the States.

ACTION TAKEN ON PUBLIC COMMENTS

PART 100b—STATE ADMINISTERED PROGRAMS

No comments were received on the proposed amendments to Part 100b, and no changes have been made.

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

The Office of Education conducted a careful review of the public comments received and summarised them by subpart and topic.

A very large number of comments dealt with specific statutory requirements. These comments expressed concerns about the statute and suggested changes to be made in the statutory provisions. However, because they are statutory, the Office of Education is not able to make any changes in the regulations with respect to those points. Some of the statutory provisions on which comments were received, together with concerns about them, are included below:

(1) Free appropriate public education—problems with timelines and concerns about the cost of implementing this requirement;

(2) Priorities—concerns about Federal priorities which are not consistent with State and local priorities;

(3) Individualized education programs—suggestions that the requirement be deleted from the regulation unless more funds are available for implementing it;

(4) Prior notice and other due process procedures—concerns about the amount of detail in these requirements and the time, cost and paper work involved in their implementation;

(5) State educational agency responsibility for general supervision of all special education programs in the State—concerns about lack of authority over other State agencies and the lack of funds to efficiently implement the provision;

(6) Child count—concerns about the dates on which the count must be taken.

Another large number of commenters cited specific concerns or issues with respect to the content of the proposed rules. Because of the large number of comments received, individual comments have been consolidated.

PART 121m—INCENTIVE GRANTS

Part 121m sets forth the conditions under which States may receive grants to assist in the education of handicapped children aged three through five. Congress established incentive grants in the recognition that when education begins at the earlier stages of development (1) benefits are maximized, (2) additional or more severe handicaps may be prevented, and (3) greater long-term cost effectiveness is realized.

Comment: An issue was raised concerning the possible use of incentive grant funds for children from birth through two years of age.

Response: Section 619 of the Act and the legislative history specify that the use of incentive grant funds is limited to children aged three through five years. However, the State's entitlement under section 611 of the Act may be used for children from birth through age twenty-one.

Comment: An issue was raised as to whether incentive grant funds may be used for administrative or supervisory costs.

Response: The regulation has been amended to make it clear that administrative costs are allowable.

Minimum Regulation—Future Rulemaking Plans

The preamble to the proposed rules contained the following statement regarding minimum regulations:

> The Department sees the development of regulations for implementing Pub. L. 94–142 as being an evolutionary process which will continue over a period of several years. The actual impact and consequences of the statutory provisions and problems which State and local educational agencies may have in implementing these provisions are not known at this time. Therefore, the Department feels that the most rational approach to follow is (1) to write minimum regulations at this point, and (2) to amend and revise such regulations in the future as need and experience dictate.
>
> Because the Statute is very comprehensive and specific on many points, the Department has elected (1) to incorporate the basic wording or substance of the Statute directly into the regulations, and (2) to expand on the statutory provisions only where additional interpretation sems to be necessary.

Although some commenters felt that more extensive regulations were necessary, many persons who responded to the proposed rules felt that the Office of Education had already over-regulated and should cut back on the rules when they are published in final form. At this juncture, the Office of Education holds to the same position that it took in the proposed rules, and for the same reasons as set forth in that document.

The Office of Education believes that some working experience with this regulation is essential before determining whether there is a need to amend it. Once the regulation becomes effective (Oct. 1, 1977) and people gain experience in implementing it, there will likely be a series of questions raised in individual States which could result in the development of policies and interpretations that would be proposed for addition to these regulations.

Overview of Changes in the Part 121a Regulations

A substantial number of changes have been made in response to comments received on the proposed rules. However, few of these changes have resulted in adding major substantive requirements. Most of the changes are technical or have been made in an attempt to provide greater clarity or to add more explanatory material.

Extensive use has been made of explanatory comments in the text of the regulations. The purpose of these comments is to attempt, where appropriate, to clarify or further interpret a particular rule, or to provide direction and assistance without imposing additional requirements. For example, an extensive explanation is included under the excess cost requirement and an example is given on how to make the computation under that requirement.

Organization of Regulations

Three parts of Title 45 of the Code of Federal Regulations are amended by this document:

(1) Part 100b—*State Administered Programs*. This includes certain conforming amendments to the regulations under section 434(b) (1) (A) of the General Education Provisions Act.

(2) Part 121a—*Assistance to States for Education of Handcapped Children*. This is divided into seven subparts: (A) General, (B) State Annual Program Plans and Local Applications, (C) Services, (D) Private Schools, (E) Procedural Safeguards, (F) State Administration, and (G) Allocation of Funds and Reports.

(3) Part 121m—*Incentive Grants*. This governs the administration of the incentive grants program for handicapped children aged three through five, authorized under section 619 of the Act.

Analysis of Regulations

Appendix A of Part 121a includes an analysis of each subpart, which (1) discusses significant comments received and the action taken with respect to those comments, and (2) explains the basis for any changes made from the proposed rules published on December 30, 1976.

Topical Index

Appendix B of Part 121a includes an index of the major topics in the regulations (e.g., free appropriate public education, priorities, and individualized education program) and the specific sections under which each term is used.

NOTE.—The Department of Health, Education, and Welfare, has determined that this document contains a major proposal requiring preparation of an Economic Impact Analysis (EIA) Statement under Executive Orders 11821 and 11949 and OMB Circular A–107, and certifies that an Economic Impact Analysis has been prepared. However, because the portion of this regulation involving major costs is virtually identical to the content of subpart D of the regulation issued on discrimination against the handicapped under section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; published May 4, 1977, at 42 FR 22675), the Department has determined that (a) this regulation involves no substantial costs not imposed by Part 84 and (b) the pertinent parts of the EIA Statement for that regulation meet the EIA requirements for this regulation. Both regulations impose the following requirements: (1) appropriate education to handicapped children; (2) identification and evaluation of handicapped children; and (3) procedural safeguards for handicapped children and their parents.

(Catalog of Federal Domestic Assistance Number 13.449, Education of Handicapped Children, Part B.)

Dated: August 12, 1977.

JOHN ELLIS,
Acting U.S. Commissioner of Education.

Approved: August 15, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Title 45 of the Code of Federal Regulations is amended as follows:

PART 100b—STATE ADMINISTERED PROGRAMS

1. In Part 100b, § 100b.17 is revised to read as follows:

§ 100b.17 General applications.

(a) The general application of a State must meet the requirements of section 434(b) (1) (A) of the General Education Provisions Act.

(b) A State does not have to resubmit its general application.

(20 U.S.C. 1232c(b) (1) (A).)

(c) (1) The following statutes require that a State must submit certain provisions to the Commissioner which are similar to provisions in the general application.

(2) Subject to paragraph (d) of this section, if the Commissioner has approved a State's general application, the State does not have to submit the provisions required under the following statutes:

(i) *Compensatory education.* Section 142(a) (2) and (3) of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii) (II), (III).)

(ii) *School library resources.* Section 203(a) (5), (6) and (7) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii) (II), (III), and (IV).)

(iii) *Supplementary educational centers and services; guidance, counseling, and testing.* Section 305(b) (9) (B), (10), and (11) of Title II of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii) (II), (III) and (IV).)

(iv) *Education of the handicapped.* Section 613(a) (7) (A), (9) (B), and (10) of Part B of the Education of the Handicapped Act, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii) (II), (III) and (IV).)

(v) *Adult education.* Section 306(a) (6) and (7) of the Adult Education Act, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii) (II), (III).)

(vi) *Strengthening instruction in academic subjects.* Section 1004(a) (2) and (3) of Title X of the National Defense Education Act of 1958, as amended.

(20 U.S.C. 1232c(b) (1) (A) (ii), (II), (III).)

(vii) *State reading improvement programs.* Section 714(a) (10) of Title VII–B of the Education Amendments of 1974.

(20 U.S.C. 1232c(b) (1) (A) (ii), (III).)

(d) (1) The general application does not change the legal substance of the provisions listed under paragraph (c) (2) of this section.

(2) If a provision listed in paragraph (c) (2) of this section is different in wording from an assurance in the general application, the provision listed in that paragraph governs any question of compliance with the assurance.

(20 U.S.C. 1232c(b) (1) (B) (i), (b) (1) (B) (iii), (b) (2).)

2. In Part 100b, § 100b.35 is revised to read as follows:

§ 100b.35 Effective date of an application, plan, or amendment.

(a) Federal funds are available only for obligations incurred under:

(1) A State plan approved by the Commissioner (in the case of the programs set forth in § 100b.10 other than those referenced in § 100b.15(a)); or

(2) A general application and an annual program plan approved by the Commissioner (in the case of the programs referenced in § 100b.15(a)).

(b) A State plan, general application, annual program plan, or amendment to any of them, is effective on the date the State submits it to the Federal Government in substantially approvable form. However, the effective date cannot be earlier than the first day of the fiscal period for which it is submitted.

(c) The Commissioner sends the State agency a notice of approval, including notice of the effective date, when the application, plan, or amendment is approved.

(d) Federal funds are not available for obligation by a State or local agency before the effective date of the State plan or annual program plan (whichever is submitted under paragraph (a) of this section). If funds are expressly made available by statute for the development of the State plan, general application, or annual program plan, the first sentence of this paragraph does not apply to obligations by the State for that purpose.

(20 U.S.C. 1221e–3(a) (1).)

3. In Part 100b, § 100b.55 is revised to read as follows:

§ 100b.55 Obligation by recipients.

(a) *Period for obligation.* Federal funds which the Federal government may obligate during a fiscal period remain available for obligation by State and local recipients through the end of that fiscal period. Federal funds made available for construction of facilities remain available for obligation by State and local recipients for that purpose for a reasonable period of time as determined by the Commissioner.

(b) *Carryovers.* In accordance with section 414(b) of the General Education Provisions Act, any Federal funds which are not obligated by State and local recipients before the end of the fiscal period under paragraph (a) of this section, remain available for obligation by those agencies for one additional fiscal year.

(c) *Determinations of obligation.* (1) An obligation for the acquisition of real or personal property, for the construction of facilities, or for the performance of work, is incurred by a recipient on the date it makes a binding written commitment.

(2) An obligation for personal services, for services performed by public utilities, for travel, or for the rental of real or personal property, is incurred by a recipient on the date it receives the services, its personnel takes the travel, or it uses the rented property.

(20 U.S.C. 1221c(a); 1225(b); 1232c(b) (1) (A) (ii) (II).)

4. Part 121a is revised to read as follows:

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Subpart A—General

PURPOSE, APPLICABILITY, AND GENERAL PROVISIONS REGULATIONS

Sec.
121a.1 Purpose.
121a.2 Applicability to State, local, and private agencies.
121a.3 General provisions regulations.

DEFINITIONS

121a.4 Free appropriate public education.
121a.5 Handicapped children.
121a.6 Include.
121a.7 Intermediate educational unit.
121a.8 Local educational agency.
121a.9 Native language.
121a.10 Parent.
121a.11 Public agency.
121a.12 Qualified.
121a.13 Related services.
121a.14 Special education.
121a.15 State.

Subpart B—State Annual Program Plans and Local Applications

ANNUAL PROGRAM PLANS—GENERAL

121a.110 Condition of assistance.
121a.111 Contents of plan.
121a.112 Certification by the State educational agency and attorney general.
121a.113 Approval; disapproval.
121a.114 Effective period of annual program plan.

ANNUAL PROGRAM PLANS—CONTENTS

121a.120 Public participation.
121a.121 Right to a free appropriate public education.
121a.122 Timelines and ages for free appropriate public education.
121a.123 Full educational opportunity goal.
121a.124 Full educational opportunity goal—data requirement.
121a.125 Full educational opportunity goal—timetable.
121a.126 Full educational opportunity goal—facilities, personnel, and services.
121a.127 Priorities.
121a.128 Identification, location, and evaluation of handicapped children.
121a.129 Confidentiality of personally identifiable information.
121a.130 Individualized education programs.
121a.131 Procedural safeguards.
121a.132 Least restrictive environment.
121a.133 Protection in evaluation procedures.
121a.134 Responsibility of State educational agency for all educational programs.
121a.135 Monitoring procedures.
121a.136 Implementation procedures—State educational agency.
121a.137 Procedures for consultation.
121a.138 Other Federal programs.
121a.139 Comprehensive system of personnel development.
121a.140 Private schools.
121a.141 Recovery of funds for misclassified children.
121a.142 Control of funds and property.
121a.143 Records.
121a.144 Hearing on application.
121a.145 Prohibition of commingling.
121a.146 Annual evaluation.
121a.147 State advisory panel.
121a.148 Policies and procedures for use of Part B funds.
121a.149 Description of use of Part B funds.
121a.150 Nondiscrimination and employment of handicapped individuals.
121a.151 Additional information if the State educational agency provides direct services.

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

121a.180 Submission of application.
121a.181 Responsibilities of State educational agency.
121a.182 The excess cost requirement.
121a.183 Meeting the excess cost requirement.
121a.184 Excess costs—computation of minimum amounts.
121a.185 Computation of excess costs—consolidated application.
121a.186 Excess costs—limitation on use of Part B funds.
121a.190 Consolidated applications.
121a.191 Payments under consolidated applications.
121a.192 State regulation of consolidated applications.
121a.193 State educational agency approval; disapproval.
121a.194 Withholding.

LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

121a.220 Child identification.
121a.221 Confidentiality of personally identifiable information.
121a.222 Full educational opportunity goal; timetable.
121a.223 Facilities, personnel, and services.
121a.224 Personnel development.
121a.225 Priorities.
121a.226 Parent involvement.
121a.227 Participation in regular education programs.
121a.228 Public control of funds.
121a.229 Excess cost.
121a.230 Nonsupplanting.
121a.231 Comparable services.
121a.232 Information—reports.
121a.233 Records.
121a.234 Public participation.
121a.235 Individualized educaton program.
121a.236 Local policies consistent with statute.
121a.237 Procedural safeguards.
121a.238 Use of Part B funds.
121a.239 Nondiscrimination and employment of handicapped individuals.
121a.240 Other requirements.

APPLICATION FROM SECRETARY OF INTERIOR

121a.260 Submission of annual application; approval.
121a.261 Public participation.
121a.262 Use of Part B funds.
121a.263 Applicable regulations.

PUBLIC PARTICIPATION

121a.280 Public hearings before adopting an annual program plan.
121a.281 Notice.
121a.282 Opportunity to participate; comment period.

121a.283 Review of public comments before adopting plan.
121a.284 Publication and availability of approved plan.

Subpart C—Services

Free Appropriate Public Education

121a.300 Timeliness for free appropriate public education.
121a.301 Free appropriate public education—methods and payments.
121a.302 Residential placement.
121a.303 Proper functioning of hearing aids.
121a.304 Full educational opportunity goal.
121a.305 Program options.
121a.306 Nonacademic services.
121a.307 Physical education.

Priorities in the Use of Part B Funds

121a.320 Definitions of "first priority children" and "second priority children."
121a.321 Priorities.
121a.322 First priority children—school year 1977–1978.
121a.323 Services to other children.
121a.324 Application of local educational agency to use funds for the second priority.

Individualized Education Programs

121a.340 Definition.
121a.341 State educational agency responsibility.
121a.342 When individualized education programs must be in effect.
121a.343 Meetings.
121a.344 Participants in meetings.
121a.345 Parent participation.
121a.346 Content of individualized education program.
121a.347 Private school placements.
121a.348 Handicapped children in parochial or other private schools.
121a.349 Individualized education program—accountability.

Direct Service by the State Educational Agency

121a.360 Use of local educational agency allocation for direct services.
121a.361 Nature and location of services.
121a.370 Use of State educational agency allocation for direct and support services.
121a.371 State matching.
121a.372 Applicability of nonsupplanting requirement.

Comprehensive System of Personnel Development

121a.380 Scope of system.
121a.381 Participation of other agencies and institutions.
121a.382 Inservice training.
121a.383 Personnel development plan.
121a.384 Dissemination.
121a.385 Adoption of educational practices.
121a.386 Evaluation.
121a.387 Technical assistance to local educational agencies.

Subpart D—Private Schools

Handicapped Children in Private Schools Placed or Referred by Public Agencies

121a.400 Applicability of §§ 121a.401–121a.403.
121a.401 Responsibility of State educational agency.
121a.402 Implementation by State educational agency.
121a.403 Placement of children by parents.

Handicapped Children in Private Schools Not Placed or Referred by Public Agencies

121a.450 Applicability of §§ 121a.451–121a.460.
121a.451 State educational agency responsibility.
121a.452 Local educational agency responsibility.
121a.453 Determination of needs, number of children, and types of services.
121a.454 Service arrangements.
121a.455 Differences in services to private school handicapped children.
121a.456 Personnel.
121a.457 Equipment.
121a.458 Prohibition of segregation.
121a.459 Funds and property not to benefit private school.
121a.460 Existing level of instruction.

Subpart E—Procedural Safeguards

Due Process Procedures for Parents and Children

121a.500 Definitions of "consent", "evaluation", and "personally identifiable".
121a.501 General responsibility of public agencies.
121a.502 Opportunity to examine records.
121a.503 Independent educational evaluation.
121a.504 Prior notice; parent consent.
121a.505 Content of notice.
121a.506 Impartial due process hearing.
121a.507 Impartial hearing officer.
121a.508 Hearing rights.
121a.509 Hearing decision; appeal.
121a.510 Administrative appeal; impartial review.
121a.511 Civil action.
121a.512 Timeliness and convenience of hearings and reviews.
121a.513 Child's status during proceedings.
121a.514 Surrogate parents.

Protection in Evaluation Procedures

121a.530 General.
121a.531 Preplacement evaluation.
121a.532 Evaluation procedures.
121a.533 Placement procedures.
121a.534 Reevaluation.

Least Restrictive Environment

121a.550 General.
121a.551 Continuum of alternative placements.
121a.552 Placements.
121a.553 Nonacademic settings.
121a.554 Children in public or private institutions.
121a.555 Technical assistance and training activities.
121a.556 Monitoring activities.

Confidentiality of Information

121a.560 Definitions.
121a.561 Notice to parents.
121a.562 Access rights.
121a.563 Record of access.
121a.564 Records on more than one child.
121a.565 List of types and locations of information.
121a.566 Fees.
121a.567 Amendment of records at parent's request.
121a.568 Opportunity for a hearing.
121a.569 Result of hearing.
121a.570 Hearing procedures.
121a.571 Consent.
121a.572 Safeguards.
121a.573 Destruction of information.
121a.574 Children's rights.
121a.575 Enforcement.
121a.576 Office of Education.

Office of Education Procedures

121a.580 Opportunity for a hearing.
121a.581 Hearing panel.
121a.582 Hearing procedures.
121a.583 Initial decision; final decision.
121a.589 Waiver of requirement regarding supplementing and supplanting with Part B funds.
121a.590 Withholding payments.
121a.591 Reinstating payments.
121a.592 Public notice by State and local educational agencies.
121a.593 Judicial review of Commissioner's final action on annual program plan.

Subpart F—State Administration

State Educational Agency Responsibilities; General

121a.600 Responsibility for all educational programs.
121a.601 Monitoring and evaluation activities.
121a.602 Adoption of complaint procedures.

Use of Funds

121a.620 Federal funds for State administration.
121a.621 Allowable costs.

State Advisory Panel

121a.650 Establishment.
121a.651 Membership.
121a.652 Advisory panel—functions.
121a.653 Advisory panel—procedures.

Subpart G—Allocation of Funds; Reports

Allocations

121a.700 Special definition of the term State.
121a.701 State entitlement; formula.
121a.702 Limitations and exclusions.
121a.703 Ratable reductions.
121a.704 Hold harmless provision.
121a.705 Within-State distribution: fiscal year 1978.
121a.706 Within-State distribution: fiscal year 1979 and after.
121a.707 Local educational agency entitlement; formula.
121a.708 Reallocation of local educational agency funds.
121a.709 Payments to Secretary of Interior.
121a.710 Entitlements to jurisdictions.

Reports

121a.750 Annual report of children served—report requirement.
121a.751 Annual report of children served—information required in the report.
121a.752 Annual report of children served—certification.
121a.753 Annual report of children served—criteria for counting children.
121a.754 Annual report of children served—other responsibilities of the State educational agency.

Appendices

Appendix A—Analysis of Final Regulation. (45 CFR Part 121a.) Under Part B of the Education of the Handicapped Act.
Appendix B—Index to Part 121a.

AUTHORITY: Part B of the Education of the Handicapped Act, Pub. L. 91–230, Title VI, as amended, 89 Stat. 776–794 (20 U.S.C. 1411–1420), unless otherwise noted.

Subpart A—General

PURPOSE, APPLICABILITY, AND GENERAL PROVISIONS REGULATIONS

§ 121a.1 Purpose.

The purpose of this part is:

(a) To insure that all handicapped children have available to them a free appropriate public education which in-

168

cludes special education and related services to meet their unique needs,

(b) To insure that the rights of handicapped children and their parents are protected,

(c) To assist States and localities to provide for the education of all handicapped children, and

(d) To assess and insure the effectiveness of efforts to educate those children.

(20 U.S.C. 1401 Note.)

§ 121a.2 Applicability to State, local, and private agencies.

(a) *States.* This part applies to each State which receives payments under Part B of the Education of the Handicapped Act.

(b) *Public agencies within the State.* The annual program plan is submitted by the State educational agency on behalf of the State as a whole. Therefore, the provisions of this part apply to all political subdivisions of the State that are involved in the education of handicapped children. These would include: (1) The State educational agency, (2) local educational agencies and intermediate educational units, (3) other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for the deaf or blind), and (4) State correctional facilities.

(c) *Private schools and facilities.* Each public agency in the State is responsible for insuring that the rights and protections under this part are given to children referred to or placed in private schools and facilities by that public agency.

(See §§ 121a.400–121a.403.)

(20 U.S.C. 1412(1), (6); 1413(a); 1413(a) (4) (B).)

Comment. The requirements of this part are binding on each public agency that has direct or delegated authority to provide special education and related services in a State that receives funds under Part B of the Act, regardless of whether that agency is receiving funds under Part B.

§ 121a.3 General provisions regulations.

Assistance under Part B of the Act is subject to Parts 100, 100b, 100c, and 121 of this chapter, which include definitions and requirements relating to fiscal, administrative, property management, and other matters.

(20 U.S.C. 1417(b).)

Definitions

Comment. Definitions of terms that are used throughout these regulations are included in this subpart. Other terms are defined in the specific subparts in which they are used. Below is a list of those terms and the specific sections and subparts in which they are defined:

Consent (Section 121a.500 of Subpart E)
Destruction (Section 121a.560 of Subpart E)
Direct services (Section 121a.370(b) (1) of Subpart C)
Evaluation (Section 121a.500 of Subpart E)
First priority children (Section 121a.320(a) of Subpart C)
Independent educational evaluation (Section 121a.503 of Subpart E)
Individualized education program (Section 121a.340 of Subpart C)
Participating agency (Section 121a.560 of Subpart E)
Personally identifiable (Section 121a.500 of Subpart E)
Private school handicapped children (Section 121a.450 of Subpart D)
Public expense (Section 121a.503 of Subpart E)
Second priority children (Section 121a.320(b) of Subpart C)
Special definition of "State" (Section 121a.700 of Subpart G)
Support services (Section 121a.370(b) (2) of Subpart C)

§ 121a.4 Free appropriate public education.

As used in this part, the term "free appropriate public education" means special education and related services which:

(a) Are provided at public expense, under public supervision and direction, and without charge,

(b) Meet the standards of the State educational agency, including the requirements of this part,

(c) Include preschool, elementary school, or secondary school education in the State involved, and

(d) Are provided in conformity with an individualized education program which meets the requirements under §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1401(18).)

§ 121a.5 Handicapped children.

(a) As used in this part, the term "handicapped children" means those children evaluated in accordance with §§ 121a.530–121a.534 as being mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, multi-handicapped, or as having specific learning disabilities, who because of those impairments need special education and related services.

(b) The terms used in this definition are defined as follows:

(1) "Deaf" means a hearing impairment which is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, which adversely affects educational performance.

(2) "Deaf-blind" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

(3) "Hard of hearing" means a hearing impairment, whether permanent or fluctuating, which adversely affects a child's educational performance but which is not included under the definition of "deaf" in this section.

(4) "Mentally retarded" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, which adversely affects a child's educational performance.

(5) "Multihandicapped" means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blind children.

(6) "Orthopedically impaired" means a severe orthopedic impairment which adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g. poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns which cause contractures).

(7) "Other health impaired" means limited strength, vitality or alertness, due to chronic or acute health problems such as a heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, or diabetes, which adversely affects a child's educational performance.

(8) "Seriously emotionally disturbed" is defined as follows:

(i) The term means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree, which adversely affects educational performance:

(A) An inability to learn which cannot be explained by intellectual, sensory, or health factors;

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(C) Inappropriate types of behavior or feelings under normal circumstances;

(D) A general pervasive mood of unhappiness or depression; or

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes children who are schizophrenic or autistic. The term does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

(9) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, or of environmental, cultural, or economic disadvantage.

(10) "Speech impaired" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, which

adversely affects a child's educational performance.

(11) "Visually handicapped" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(20 U.S.C. 1401(1), (15).)

§ 121a.6 Include.

As used in this part, the term "include" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(20 U.S.C. 1417(b).)

§ 121a.7 Intermediate educational unit.

As used in this part, the term "intermediate educational unit" means any public authority, other than a local educational agency, which:

(a) Is under the general supervision of a State educational agency;

(b) Is established by State law for the purpose of providing free public education on a regional basis; and

(c) Provides special education and related services to handicapped children within that State.

(20 U.S.C. 1401(22).)

§ 121a.8 Local educational agency.

(a) As used in this part, the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(b) For the purposes of this part, the term "local educational agency" also includes intermediate educational units.

(20 U.S.C. 1401(8).)

§ 121a.9 Native language.

As used in this part, the term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act, which provides as follows:

> The term "native language", when used with reference to a person of limited English-speaking ability, means the language normally used by that person, or in the case of a child, the language normally used by the parents of the child.

(20 U.S.C. 880b-1(a)(2); 1401(21).)

Comment. Section 602(21) of the Education of the Handicapped Act states that the term "native language" has the same meaning as the definition from the Billingual Education Act. (The term is used in the prior notice and evaluation sections under § 121a.505(b)(2) and § 121a.532(a)(1) of Subpart E.) In using the term, the Act does not prevent the following means of communication:

(1) In all direct contact with a child (including evaluation of the child), communication would be in the language normally used by the child and not that of the parents, if there is a difference between the two.

(2) If a person is deaf or blind, or has no written language, the mode of communication would be that normally used by the person (such as sign language, braille, or oral communication).

§ 121a.10 Parent.

As used in this part, the term "parent" means a parent, a guardian, a person acting as a parent of a child, or a surrogate parent who has been appointed in accordance with § 121a.514. The term does not include the State if the child is a ward of the State.

(20 U.S.C. 1415.)

Comment. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

§ 121a.11 Public agency.

As used in this part, the term "public agency" includes the State educational agency, local educational agencies, intermediate educational units, and any other political subdivisions of the State which are responsible for providing education to handicapped children.

(20 U.S.C. 1412(2)(B); 1412(6); 1413(a).)

§ 121a.12 Qualified.

As used in this part, the term "qualified" means that a person has met State educational agency approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services.

(20 U.S.C. 1417(b).)

§ 121a.13 Related services.

(a) As used in this part, the term "related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education, and includes speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

(b) The terms used in this definition are defined as follows:

(1) "Audiology" includes:

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of pupils, parents, and teachers regarding hearing loss; and

(vi) Determination of the child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) "Early identification" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) "Medical services" means services provided by a licensed physician to determine a child's medically related handicapping condition which results in the child's need for special education and related services.

(5) "Occupational therapy" includes:

(i) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;

(ii) Improving ability to perform tasks for independent functioning when functions are impaired or lost; and

(iii) Preventing, through early intervention, initial or further impairment or loss of function.

(6) "Parent counseling and training" means assisting parents in understanding the special needs of their child and providing parents with information about child development.

(7) "Physical therapy" means services provided by a qualified physical therapist.

(8) "Psychological services" include:

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning.

(iv) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations; and

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents.

(9) "Recreation" includes:

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(10) "School health services" means services provided by a qualified school nurse or other qualified person.

(11) "Social work services in schools" include:

(i) Preparing a social or developmental history on a handicapped child;

(ii) Group and individual counseling with the child and family;

(iii) Working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; and

(iv) Mobilizing school and community resources to enable the child to receive maximum benefit from his or her educational program.

(12) "Speech pathology" includes:

(i) Identification of children with speech or language disorders;

(ii) Diagnosis and appraisal of specific speech or language disorders;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language disorders;

(iv) Provisions of speech and language services for the habilitation or prevention of communicative disorders; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language disorders.

(13) "Transportation" includes:

(i) Travel to and from school and between schools,

(ii) Travel in and around school buildings, and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a handicapped child.

(20 U.S.C. 1401(17).)

Comment. With respect to related services, the Senate Report states:

> The Committee bill provides a definition of "related services," making clear that all such related services may not be required for each individual child and that such term includes early identification and assessment of handicapping conditions and the provision of services to minimize the effects of such conditions.

(Senate Report No. 94–168, p.12 (1975).)

The list of related services is not exhaustive and may include other developmental, corrective, or supportive services (such as artistic and cultural programs, and art, music, and dance therapy), if they are required to assist a handicapped child to benefit from special education.

There are certain kinds of services which might be provided by persons from varying professional backgrounds and with a variety of operational titles, depending upon requirements in individual States. For example, counseling services might be provided by social workers, psychologists, or guidance counselors; and psychological testing might be done by qualified psychological examiners, psychometrists, or psychologists, depending upon State standards.

Each related service defined under this part may include appropriate administrative and supervisory activities that are necessary for program planning, management, and evaluation."

§ 121a.14 Special education.

(a) (1) As used in this part, the term "special education" means specially designed instruction, at no cost to the parent, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(2) The term includes speech pathology, or any other related service, if the service consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child, and is considered "special education" rather than a "related service" under State standards.

(3) The term also includes vocational education if it consists of specially designed instruction, at no cost to the parents, to meet the unique needs of a handicapped child.

(b) The terms in this definition are defined as follows:

(1) "At no cost" means that all specially designed instruction is provided without charge, but does not preclude incidental fees which are normally charged to non-handicapped students or their parents as a part of the regular education program.

(2) "Physical education" is defined as follows:

(i) The term means the development of:

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

(ii) The term includes special physical education, adapted physical education, movement education, and motor development.

(20 U.S.C. 1401(16).)

(3) "Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree.

(20 U.S.C. 1401(16).)

Comment. (1) The definition of "special education" is a particularly important one under these regulations, since a child is not handicapped unless he or she needs special education. (See the definition of "handicapped children" in section 121a.5.) The definition of "related services" (section 121a.13) also depends on this definition, since a related service must be necessary for a child to benefit from special education. Therefore, if a child does not need special education, there can be no "related services," and the child (because not "handicapped") is not covered under the Act.

(2) The above definition of vocational education is taken from the Vocational Education Act of 1963, as amended by Pub. L. 94-482. Under that Act, "vocational education" includes industrial arts and consumer and homemaking education programs.

§ 121a.15 State.

As used in this part, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virginia Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1401(6).)

Subpart B—State Annual Program Plans and Local Applications

ANNUAL PROGRAM PLANS—GENERAL

§ 121a.110 Condition of assistance.

In order to receive funds under Part B of the Act for any fiscal year, a State must submit an annual program plan to the Commissioner through its State educational agency.

(20 U.S.C. 1232c(b), 1412, 1413.)

§ 121a.111 Contents of plan.

Each annual program plan must contain the provisions required in this subpart.

(20 U.S.C. 1412, 1413, 1232c(b).)

§ 121a.112 Certification by the State educational agency and attorney general.

Each annual program plan must include:

(a) A certification by the officer of the State educational agency authorized to submit the plan that:

(1) The plan has been adopted by the State educational agency, and

(2) The plan is the basis for the operation and administration of the activities to be carried out in that State under Part B of the Act; and

(b) A certification by the State Attorney General or other authorized State legal officer that:

(1) The State educational agency has authority under State law to submit the plan and to administer or to supervise the administration of the plan, and

(2) All plan provisions are consistent with State law.

(20 U.S.C. 1413(a).)

§ 121a.113 Approval; disapproval.

(a) The Commissioner shall approve any annual program plan which meets the requirements of this part and Subpart B of Part 100b of this chapter.

(b) The Commissioner shall disapprove any annual program plan which does not meet those requirements but may not finally disapprove a plan before giving reasonable notice and an opportunity for a hearing to the State educational agency.

(c) The Commissioner shall use the procedures set forth in §§ 121a.580–121a.583 of Subpart E for a hearing under this section.

(20 U.S.C. 1413(c).)

§ 121a.114 Effective period of annual program plan.

(a) Each annual program plan is effective for a period from the date it becomes effective under § 100b.35 of this chapter through the following June 30.

(b) The Commissioner may extend the effective period of an annual program plan, on the request of a State, if the plan meets the requirements of this part and Part B of the Act.

(20 U.S.C. 1413(a), 1232c(b).)

ANNUAL PROGRAM PLANS—CONTENTS

§ 121a.120 Public participation.

(a) Each annual program plan must include procedures which insure that the requirements in §§ 121a.280–121a.284 are met.

(b) Each annual program plan must also include the following:

(1) A statement describing the methods used by the State educational agency to provide notice of the public hearings on the annual program plan. The statement must include:

(i) A copy of each news release and advertisement used to provide notice,

(ii) A list of the newspapers and other media in which the State educational agency announced or published the notice, and

(iii) The dates on which the notice was announced or published.

(2) A list of the dates and locations of the public hearings on the annual program plan.

(3) A summary of comments received by the State educational agency and a description of the modifications that the State educational agency has made in the annual program plan as a result of the comments.

(4) A statement describing the methods by which the annual program plan will be made public after its approval by the Commissioner. This statement must include the information required under paragraph (b)(1) of this section.

(20 U.S.C. 1412(7).)

§ 121a.121 Right to a free appropriate public education.

(a) Each annual program plan must include information which shows that the State has in effect a policy which insures that all handicapped children have the right to a free appropriate public education within the age ranges and timelines under § 121a.122.

(b) The information must include a copy of each State statute, court order, State Attorney General opinion, and other State document that shows the source of the policy.

(c) The information must show that the policy:

(1) Applies to all public agencies in the State;

(2) Applies to all handicapped children;

(3) Implements the priorities established under § 121a.127(a)(1) of this subpart; and

(4) Establishes timelines for implementing the policy, in accordance with § 121a.122.

(20 U.S.C. 1412(1)(2)(B), (6); 1413(a)(3).)

§ 121a.122 Timeliness and ages for free appropriate public education.

(a) *General.* Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure that a free appropriate public education is available for all handicapped children aged three through eighteen within the State not later than September 1, 1978, and for all handicapped children aged three through twenty-one within the State not later than September 1, 1980.

(b) *Documents relating to timelines.* Each annual program plan must include a copy of each statute, court order, attorney general decision, and other State document which demonstrates that the State has established timelines in accordance with paragraph (a) of this section.

(c) *Exception.* The requirement in paragraph (a) of this section does not apply to a State with respect to handicapped children aged three, four, five, eighteen, nineteen, twenty, or twenty-one to the extent that the requirement would be inconsistent with State law or practice, or the order of any court, respecting public education for one or more of those age groups in the State.

(d) *Documents relating to exceptions.* Each annual program plan must:

(1) Describe in detail the extent to which the exception in paragraph (c) of this section applies to the State, and

(2) Include a copy of each State law, court order, and other document which provides a basis for the exception.

(20 U.S.C. 1412(2)(B).)

§ 121a.123 Full educational opportunity goal.

Each annual program plan must include in detail the policies and procedures which the State will undertake, or has undertaken, in order to insure that the State has a goal of providing full educational opportunity to all handicapped children aged birth through twenty-one.

(20 U.S.C. 1412(2)(A).)

§ 121a.124 Full educational opportunity goal—data requirement.

Beginning with school year 1978–1979, each annual program plan must contain the following information:

(a) The estimated number of handicapped children who need special education and related services.

(b) For the current school year:

(1) The number of handicapped children aged birth through two, who are receiving special education and related services; and

(2) The number of handicapped children:

(i) Who are receiving a free appropriate public education,

(ii) Who need, but are not receiving a free appropriate public education,

(iii) Who are enrolled in public and private institutions who are receiving a free appropriate public education, and

(iv) Who are enrolled in public and private institutions and are not receiving a free appropriate public education.

(c) The estimated numbers of handicapped children who are expected to receive special education and related services during the next school year.

(d) A description of the basis used to determine the data required under this section.

(e) The data required by paragraphs (a), (b), and (c) of this section must be provided:

(1) For each disability category (except for children aged birth through two), and

(2) For each of the following age ranges: birth through two, three through five, six through seventeen, and eighteen through twenty-one.

(20 U.S.C. 1412(2)(A).)

Comment. In Part B of the Act, the term "disability" is used interchangeably with "handicapping condition". For consistency in this regulation, a child with a "disability" means a child with one of the impairments listed in the definition of "handicapped children" in § 121a.5, if the child needs special education because of the impairment. In essence, there is a continuum of impairments. When an impairment is of such a nature that the child needs special education, it is referred to as a disability, in these regulations, and the child is a "handicapped" child.

States should note that data required under this section are not to be transmitted to the Commissioner in personally identifiable form. Generally, except for such purposes as monitoring and auditing, neither the States nor the Federal Government should have to collect data under this part in personally identifiable form.

§ 121a.125 Full educational opportunity goal—timetable.

(a) *General requirement.* Each annual program plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity for all handicapped children.

(b) *Content of timetable.* (1) The timetable must indicate what percent of the total estimated number of handicapped children the State expects to have full educational opportunity in each succeeding school year.

(2) The data required under this paragraph must be provided:

(i) For each disability category (except for children aged birth through two), and

(ii) For each of the following age ranges: birth through two, three through five, six through seventeen, and eighteen through twenty-one.

(20 U.S.C. 1412(2)(A).)

§ 121a.126 Full educational opportunity goal—facilities, personnel, and services.

(a) *General requirement.* Each annual program plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet the goal of providing full educational opportunity for all handicapped children. The State educational agency shall include the data required under paragraph (b) of this section and whatever additional data are necessary to meet the requirement.

(b) *Statistical description.* Each annual program plan must include the following data:

(1) The number of additional special class teachers, resource room teachers, and itinerant or consultant teachers needed for each disability category and

the number of each of these who are currently employed in the State.

(2) The number of other additional personnel needed, and the number currently employed in the State, including school psychologists, school social workers, occupational therapists, physical therapists, home-hospital teachers, speech-language pathologists, audiologists, teacher aides, vocational education teachers, work study coordinators, physical education teachers, therapeutic recreation specialists, diagnostic personnel, supervisors, and other instructional and non-instructional staff.

(3) The total number of personnel reported under paragraph (b) (1) and (2) of this section, and the salary costs of those personnel.

(4) The number and kind of facilities needed for handicapped children and the number and kind currently in use in the State, including regular classes serving handicapped children, self-contained classes on a regular school campus, resource rooms, private special education day schools, public special education day schools, private special education residential schools, public special education residential schools, hospital programs, occupational therapy facilities, physical therapy facilities, public sheltered workshops, private sheltered workshops, and other types of facilities.

(5) The total number of transportation units needed for handicapped children, the number of transportation units designed for handicapped children which are in use in the State, and the number of handicapped children who use these units to benefit from special education.

(c) *Data categories*. The data required under paragraph (b) of this section must be provided as follows:

(1) Estimates for serving all handicapped children who require special education and related services,

(2) Current year data, based on the actual numbers of handicapped children receiving special education and related services (as reported under Subpart G), and

(3) Estimates for the next school year.

(d) *Rationale*. Each annual program plan must include a description of the means used to determine the number and salary costs of personnel.

(20 U.S.C. 1412(2) (A).)

§ 121a.127 Priorities.

(a) *General requirement*. Each annual program plan must include information which shows that:

(1) The State has established priorities which meet the requirements under §§ 121a.320–121a.324 of Subpart C.

(2) The State priorities meet the timelines under § 121a.122 of this subpart, and

(3) The State has made progress in meeting those timelines.

(b) *Child data*. (1) Each annual program plan must show the number of handicapped children known by the State to be in each of the first two priority groups named in §§ 121a.321 of Subpart C:

(1) By disability category, and

(2) By the age ranges in § 121a.124(e) (2) of this subpart.

(c) *Activities and resources*. Each annual program plan must show for each of the first two priority groups:

(1) The programs, services, and activities that are being carried out in the State,

(2) The Federal, State, and local resources that have been committed during the current school year, and

(3) The programs, services, activities, and resources that are to be provided during the next school year.

(20 U.S.C. 1412(3).)

§ 121a.128 Identification, location, and evaluation of handicapped children.

(a) *General requirement*. Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken to insure that:

(1) All children who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated; and

(2) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(b) *Information*. Each annual program plan must:

(1) Designate the State agency (if other than the State educational agency) responsible for coordinating the planning and implementation of the policies and procedures under paragraph (a) of this section;

(2) Name each agency that participates in the planning and implementation and describe the nature and extent of its participation;

(3) Describe the extent to which:

(i) The activities described in paragraph (a) of this section have been achieved under the current annual program plan, and

(ii) The resources named for these activities in that plan have been used;

(4) Describe each type of activity to be carried out during the next school year, including the role of the agency named under paragraph (b) (1) of this section, timelines for completing those activities, resources that will be used, and expected outcomes;

(5) Describe how the policies and procedures under paragraph (a) of this section will be monitored to insure that the State educational agency obtains:

(i) The number of handicapped children within each disability category that have been identified, located, and evaluated, and

(ii) Information adequate to evaluate the effectiveness of those policies and procedures; and

(6) Describe the method the State uses to determine which children are currently receiving special education and related services and which children are not receiving special education and related services.

(20 U.S.C. 1412(2) (C).)

Comment. The State is responsible for insuring that all handicapped children are identified, located, and evaluated, including children in all public and private agencies and institutions in the State. Collection and use of data are subject to the confidentiality requirements in §§ 121a.560–121a.576.

§ 121a.129 Confidentiality of personally identifiable information.

(a) Each annual program plan must include in detail the policies and procedures which the State will undertake or has undertaken in order to insure the protection of the confidentiality of any personally identifiable information collected, used, or maintained under this part.

(b) The Commissioner shall use the criteria in §§ 121a.560–121a.576 of Subpart E to evaluate the policies and procedures of the State under paragraph (a) of this section.

(20 U.S.C. 1412(2) (D); 1417(c).)

Comment. The confidentiality regulations were published in the FEDERAL REGISTER in final form on February 27, 1976 (41 FR 8603–8610), and met the requirements of Part B of the Act, as amended by Pub. L. 94–142. Those regulations are incorporated in § 121a.560–121a.576 of Subpart E.

§ 121a.130 Individualized education programs.

(a) Each annual program plan must include information which shows that each public agency in the State maintains records of the individualized education program for each handicapped child, and each public agency establishes, reviews, and revises each program as provided in Subpart C.

(b) Each annual program plan must include:

(1) A copy of each State statute, policy, and standard that regulates the manner in which individualized education programs are developed, implemented, reviewed, and revised, and

(2) The procedures which the State educational agency follows in monitoring and evaluating those programs.

(20 U.S.C. 1412(4).)

§ 121a.131 Procedural safeguards.

Each annual program plan must include procedural safeguards which insure that the requirements in §§ 121a.500–121a.514 of Subpart E are met.

(20 U.S.C. 1412(5(A).)

§ 121a.132 Least restrictive environment.

(a) Each annual program plan must include procedures which insure that the requirements in §§ 121a.550–121a.556 of Subpart E are met.

(b) Each annual program plan must include the following information:

(1) The number of handicapped children in the State, within each disability category, who are participating in regular education programs, consistent with §§ 121a.550–121a.556 of Subpart E.

(2) The number of handicapped children who are in separate classes or separate school facilities, or who are otherwise removed from the regular education environment.

(20 U.S.C. 1412(5) (B).)

§ 121a.133 Protection in evaluation procedures.

Each annual program plan must include procedures which insure that the requirements in §§ 121a.530–121a.534 of Subpart E are met.

(10 U.S.C. 1412(5) (C).)

§ 121a.134 Responsibility of State educational agency for all educational programs.

(a) Each annual program plan must include information which shows that the requirements in § 121a.600 of Subpart F are met.

(b) The information under paragraph (a) of this section must include a copy of each State statute, State regulation, signed agreement between respective agency officials, and any other document that shows compliance with that paragraph.

(20 U.S.C. 1412(6).)

§ 121a.135 Monitoring procedures.

Each annual program plan must include information which shows that the requirements in § 121a.601 and § 121a.602 of Subpart F are met.

(20 U.S.C. 1412(6).)

§ 121a.136 Implementation procedure—State educational agency.

Each annual program plan must describe the procedures the State educational agency follows to inform each public agency of its responsibility for insuring effective implementation of procedural safeguards for the handicapped children served by that public agency.

(20 U.S.C. 1412(6).)

§ 121a.137 Procedures for consultation.

Each annual program plan must include an assurance that in carrying out the requirements of section 612 of the Act, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents of handicapped children.

(20 U.S.C. 1412(7) (A).)

§ 121a.138 Other Federal programs.

Each annual program plan must provide that programs and procedures are established to insure that funds received by the State or any public agency in the State under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c–2), section 305 (b)(8) of that Act (20 U.S.C. 844a(b)(8)) or Title IV–C of that Act (20 U.S.C. 1831), and section 110(a) of the Vocational Education Act of 1963, under which there is specific authority for assistance for the education of handicapped children, are used by the State, or any public agency in the State, only in a manner consistent with the goal of providing free appropriate public education for all handicapped children, except that nothing in this section limits the specific requirements of the laws governing those Federal programs.

(20 U.S.C. 1413(a) (2).)

§ 121a.139 Comprehensive system of personnel development.

Each annual program plan must include the material required under §§ 121a.380–121a.387 of Subpart C.

(20 U.S.C. 1413(a) (3).)

§ 121a.140 Private schools.

Each annual program plan must include policies and procedures which insure that the requirements of Subpart D are met.

(20 U.S.C. 1413(a) (4).)

§ 121a.141 Recovery of funds for misclassified children.

Each annual program plan must include policies and procedures which insure that the State seeks to recover any funds provided under Part B of the Act for services to a child who is determined to be erroneously classified as eligible to be counted under section 611(a) or (d) of the Act.

(20 U.S.C. 1413(a) (5).)

§ 121a.142 Control of funds and property.

Each annual program plan must provide assurance satisfactory to the Commissioner that the control of funds provided under Part B of the Act, and title to property acquired with those funds, is in a public agency for the uses and purposes provided in this part, and that a public agency administers the funds and property.

(20 U.S.C. 1413(a) (6).)

§ 121a.143 Records.

Each annual program plan must provide for keeping records and affording access to those records, as the Commissioner may find necessary to assure the correctness and verification of reports and of proper disbursement of funds provided under Part B of the Act.

(20 U.S.C. 1413(a) (7) (B).)

§ 121a.144 Hearing on application.

Each annual program plan must include procedures to insure that the State educational agency does not take any final action with respect to an application submitted by a local educational agency before giving the local educational agency reasonable notice and an opportunity for a hearing.

(20 U.S.C. 1413(a) (8).)

§ 121a.145 Prohibition of commingling.

Each annual program plan must provide assurance satisfactory to the Commissioner that funds provided under Part B of the Act are not commingled with State funds.

(20 U.S.C. 1413(a) (9).)

Comment. This assurance is satisfied by the use of a separate accounting system that includes an "audit trail" of the expenditure of the Part B funds. Separate bank accounts are not required. (See 45 CFR 100b, Subpart F (Cash Depositories).)

§ 121a.146 Annual evaluation.

Each annual program plan must include procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, including evaluation of individualized education programs.

(20 U.S.C. 1413(a) (11).)

§ 121a.147 State advisory panel.

Each annual program plan must provide that the requirements of §§ 121a.650–121a.653 of Subpart F are met.

(20 U.S.C. 1413(a) (12).)

§ 121a.148 Policies and procedures for use of Part B funds.

Each annual program plan must set forth policies and procedures designed to insure that funds paid to the State under Part B of the Act are spent in accordance with the provisions of Part B, with particular attention given to sections 611(b), 611(c), 611(d), 612(2), and 612(3) of the Act.

(20 U.S.C. 1413(a) (1).)

§ 121a.149 Description of use of Part B funds.

(a) *State allocation.* Each annual program plan must include the following information about the State's use of funds under § 121a.370 of Subpart C and § 121a.620 of Subpart F:

(1) A list of administrative positions, and a description of duties for each person whose salary is paid in whole or in part with those funds.

(2) For each position, the percentage of salary paid with those funds.

(3) A description of each administrative activity the State educational agency will carry out during the next school year with those funds.

(4) A description of each direct service and each support service which the State educational agency will provide during the next school year with those funds, and the activities the State advisory panel will undertake during that period with those funds.

(b) *Local educational agency allocation.* Each annual program plan must include:

(1) An estimate of the number and percent of local educational agencies in the State which will receive an allocation under this part (other than local educational agencies which submit a consolidated application),

(2) An estimate of the number of local educational agencies which will receive an allocation under a consolidated application,

(3) An estimate of the number of consolidated applications and the average number of local educational agencies per application, and

(4) A description of direct services the State educational agency will provide under § 121a.360 of Subpart C.

(20 U.S.C. 1232c(b)(1)(B)(ii).)

§ 121a.150 Nondiscrimination and employment of handicapped individuals.

(a) Each annual program plan must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The State educational agency may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare.

(b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states:

> The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

(20 U.S.C. 1405; 29 U.S.C. 794.)

§ 121a.151 Additional information if the State educational agency provides direct services.

If a State educational agency provides free appropriate public education for handicapped children or provides them with direct services, its annual program plan must include the information required under §§ 121a.226–121a.228, 121a.231, and 121a.235.

(20 U.S.C. 1413(b).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—GENERAL

§ 121a.180 Submission of application.

In order to receive payments under Part B of the Act for any fiscal year a local educational agency must submit an application to the State educational agency.

(20 U.S.C. 1414(a).)

§ 121a.181 Responsibilities of State educational agency.

Each State educational agency shall establish the procedures and format which a local educational agency uses in preparing and submitting its application.

(20 U.S.C. 1414(a)

§ 121a.182 The excess cost requirement.

A local educational agency may only use funds under Part B of the Act for the excess costs of providing special education and related services for handicapped children.

(20 U.S.C. 1414(a)(1), (a)(2)(B)(i).)

§ 121a.183 Meeting the excess cost requirement.

(a) A local educational agency meets the excess cost requirement if it has on the average spent at least the amount determined under § 121a.184 for the education of each of its handicapped children. This amount may not include capital outlay or debt service.

(b) Each local educational agency must keep records adequate to show that it has met the excess cost requirement.

(20 U.S.C. 1402(20); 1414(a)(1).)

Comment. The excess cost requirement means that the local educational agency must spend a certain minimum amount for the education of its handicapped children before Part B funds are used. This insures that children served with Part B funds have at least the same average amount spent on them, from sources other than Part B, as do the children in the school district taken as a whole.

The minimum amount that must be spent for the education of handicapped children is computed under a statutory formula. Section 121a.184 implements this formula and gives a step-by-step method to determine the minimum amount. Excess costs are those costs of special education and related services which exceed the minimum amount. Therefore, if a local educational agency can show that it has (on the average) spent the minimum amount for the education of each of its handicapped children, it has met the excess cost requirement, and all additional costs are excess costs. Part B funds can then be used to pay for these additional costs, subject to the other requirements of Part B (priorities, etc.). In the "Comment" under section 121a.184, there is an example of how the minimum amount is computed.

§ 121a.184 Excess costs—computation of minimum amount.

The minimum average amount a local educational agency must spend under § 121a.183 for the education of each of its handicapped children is computed as follows:

(a) Add all expenditures of the local educational agency in the preceding school year, except capital outlay and debt service:

(1) For elementary school students, if the handicapped child is an elementary school student, or

(2) For secondary school students, if the handicapped child is a secondary school student.

(b) From this amount, subtract the total of the following amounts spent for elementary school students or for secondary school students, as the case may be:

(1) Amounts the agency spent in the preceding school year from funds awarded under Part B of the Act and Titles I and VII of the Elementary and Secondary Education Act of 1965, and

(2) Amounts from State and local funds which the agency spent in the preceding school year for:

(i) Programs for handicapped children,

(ii) Programs to meet the special educational needs of educationally deprived children, and

(iii) Programs of bilingual education for children with limited English-speaking ability.

(c) Divide the result under paragraph (b) of this section by the average number of students enrolled in the agency in the preceding school year:

(1) In its elementary schools, if the handicapped child is an elementary school student, or

(2) In its secondary schools, if the handicapped child is a secondary school student.

(20 U.S.C. 1414(a)(1).)

Comment. The following is an example of how a local educational agency might compute the average minimum amount it must spend for the education of each of its handicapped children, under § 121a.183. This example follows the formula in § 121a.184. Under the statute and regulations, the local educational agency must make one computation for handicapped children in its elementary schools and a separate computation for handicapped children in its secondary schools. The computation for handicapped elementary school students would be done as follows:

a. First, the local educational agency must determine its total amount of expenditures for elementary school students from all sources—local, State, and Federal (including Part B)—in the preceding school year. Only capital outlay and debt service are excluded.

Example: A local educational agency spent the following amounts last year for elementary school students (including its handicapped elementary school students):

(1) From local tax funds	$2,750,000
(2) From State funds	7,000,000
(3) From Federal funds	750,000
	10,500,000

Of this total, $500,000 was for capital outlay and debt service relating to the education of elementary school students. This must be subtracted from total expenditures:

	$10,500,000
	−500,000
Total expenditures for elementary school students (less capital outlay and debt service)	=10,000,000

b. Next, the local educational agency must subtract amounts spent for:

(1) Programs for handicapped children;

(2) Programs to meet the special educational needs of educationally deprived children; and

(3) Programs of bilingual education for children with limited English-speaking ability.

These are funds which the local educational agency actually spent, not funds received last year but carried over for the current school year.

Example: The local educational agency spent the following amounts for elementary school students last year:

(1) From funds under Title I of the Elementary and Secondary Education Act of 1965	$300,000
(2) From a special State program for educationally deprived children	200,000
(3) From a grant under Part B	200,000
(4) From State funds for the education of handicapped children	500,000

(5) From a locally-funded program for handicapped children	$250,000
(6) From a grant for a bilingual education program under Title VII of the Elementary and Secondary Education Act of 1965	150,000
Total	1,600,000

(A local educational agency would also include any other funds it spent from Federal, State, or local sources for the three basic purposes: handicapped children, educationally deprived children, and bilingual education for children with limited English-speaking ability.)

This amount is subtracted from the local educational agency's total expenditure for elementary school students computed above:

$$\begin{array}{r} \$10,000,000 \\ -1,600,000 \\ \hline 8,400,000 \end{array}$$

c. The local educational agency next must divide by the average number of students enrolled in the elementary schools of the agency last year (including its handicapped students).

Example: Last year, an average of 7,000 students were enrolled in the agency's elementary schools. This must be divided into the amount computed under the above paragraph:

$$\frac{\$8,400,000}{7,000 \text{ students}} = \$1,200/\text{student}$$

This figure is in the minimum amount the local educational agency must spend (on the average) for the education of each of its handicapped students. Funds under Part B may be used only for costs over and above this minimum. In this example, if the local educational agency has 100 handicapped elementary school students, it must keep records adequate to show that it has spent at least $120,000 for the education of those students (100 students times $1,200/student), not including capital outlay and debt service.

This $120,000 may come from any funds except funds under Part B, subject to any legal requirements that govern the use of those other funds.

If the local educational agency has handicapped secondary school students, it must do the same computation for them. However, the amounts used in the computation would be those the local educational agency spent last year for the education of secondary school students, rather than for elementary school students.

§ 121a.185 Computation of excess costs—consolidated application.

The minimum average amount under § 121a.183 where two or more local educational agencies submit a consolidated application, is the average of the combined minimum average amounts determined under § 121a.184 in those agencies for elementary or secondary school students, as the case may be.

(20 U.S.C. 1414(a)(1).)

§ 121a.186 Excess costs—limitation on use of Part B funds.

(a) The excess cost requirement prevents a local educational agency from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a handicapped child, subject to paragraph (b) of this section.

(b) The excess cost requirement does not prevent a local educational agency from using Part B funds to pay for all of the costs directly attributable to the education of a handicapped child in any of the age ranges three, four, five, eighteen, nineteen, twenty, or twenty-one, if no local or State funds are available for non-handicapped children in that age range. However, the local educational agency must comply with the non-supplanting and other requirements of this part in providing the education and services.

(20 U.S.C. 1402(20); 1414(a)(1).)

§ 121a.190 Consolidated applications.

(a) *Voluntary applications.* Local educational agencies may submit a consolidated application for payments under Part B of the Act.

(b) *Required applications.* A State educational agency may require local educational agencies to submit a consolidated application for payments under Part B of the Act if the State educational agency determines that an individual application submitted by a local educational agency will be disapproved because:

(1) The agency's entitlement is less than the $7,500 minimum required by section 611(c)(4)(A)(i) of the Act (§ 121a.360(a)(1) of Subpart C); or

(2) The agency is unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(c) *Size and scope of program.* The State educational agency shall establish standards and procedures for determinations under paragraph (b)(2) of this section.

(20 U.S.C. 1414(c)(1).)

§ 121a.191 Payments under consolidated applications.

In any case in which a consolidated application is approved by the State educational agency, the payments to the participating local educational agencies must be equal to the sum of the entitlements of the separate local educational agencies.

(20 U.S.C. 1414(c)(2)(A).)

§ 121a.192 State regulation of consolidated applications.

(a) The State educational agency shall issue regulations with respect to consolidated applications submitted under this part.

(b) The State educational agency's regulations must:

(1) Be consistent with section 612(1)–(7) and section 613(a) of the Act, and

(2) Provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(20 U.S.C. 1414(c)(2)(B).)

(c) If an intermediate educational unit is required under State law to carry out this part, the joint responsibilities given to local educational agencies under paragraph (b)(2) of this section do not apply to the administration and disbursement of any payments received by the intermediate educational unit. Those administrative responsibilities must be carried out exclusively by the intermediate educational unit.

(20 U.S.C. 1414(c)(2)(C).)

§ 121a.193 State educational agency approval; disapproval.

(a) *Approval.* A State educational agency shall approve an application submitted by a local educational agency if the State educational agency determines that the application meets the requirements under §§ 121a.220–121a.240. However, the State educational agency may not approve any application until the Commissioner approves its annual program plan for the school year covered by the application.

(b) *Disapproval.* The State educational agency shall disapprove an application if the State educational agency determines that the application does not meet a requirement under §§ 121a.220–121a.240.

(20 U.S.C. 1414(b)(1).)

(c) In carrying out its functions under this section, each State educational agency shall consider any decision resulting from a hearing under §§ 121a.506–121a.513 of Subpart E which is adverse to the local educational agency involved in the decision.

(20 U.S.C. 1414(b)(3).)

§ 121a.194 Withholding.

(a) If a State educational agency, after giving reasonable notice and an opportunity for a hearing to a local educational agency, decides that the local educational agency in the administration of an application approved by the State educational agency has failed to comply with any requirement in the application, the State educational agency, after giving notice to the local educational agency, shall:

(1) Make no further payments to the local educational agency until the State educational agency is satisfied that there is no longer any failure to comply with the requirement; or

(2) Consider its decision in its review of any application made by the local educational agency under § 121a.180;

(3) Or both.

(b) Any local educational agency receiving a notice from a State educational agency under paragraph (a) of this section is subject to the public notice provision in § 121a.592.

(20 U.S.C. 1414(b)(2).)

LOCAL EDUCATIONAL AGENCY APPLICATIONS—CONTENTS

§ 121a.220 Child identification.

Each application must include procedures which insure that all children residing within the jurisdiction of the local educational agency who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services.

(20 U.S.C. 1414(a) (1) (A).)

Comment. The local educational agency is responsible for insuring that all handicapped children within its jurisdiction are identified, located, and evaluated, including children in all public and private agencies and institutions within that jurisdiction. Collection and use of data are subject to the confidentiality requirements in §§ 121a.560–121a.576 of Subpart E.

§ 121a.221 Confidentiality of personally identifiable information.

Each application must include policies and procedures which insure that the criteria in §§ 121a.560–121a.574 of Subpart E are met.

(20 U.S.C. 1414(a) (1) (B).)

§ 121a.222 Full educational opportunity goal; timetable.

Each application must: (a) Include a goal of providing full educational opportunity to all handicapped children, aged birth through 21, and

(b) Include a detailed timetable for accomplishing the goal.

(20 U.S.C. 1414(a) (1) (C), (D).)

§ 121a.223 Facilities, personnel, and services.

Each application must provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal in § 121a.222.

(20 U.S.C. 1414(a) (1) (E).)

§ 121a.224 Personnel development.

Each application must include procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under § 121a.140.

(20 U.S.C. 1414(a) (1) (C) (i).)

§ 121a.225 Priorities.

Each application must include priorities which meet the requirements of §§ 121a.320–121a.324.

(20 U.S.C. 1414(a) (1) (C) (ii).)

§ 121a.226 Parent involvement.

Each application must include procedures to insure that, in meeting the goal under § 121a.222, the local educational agency makes provision for participation of and consultation with parents or guardians of handicapped children.

(20 U.S.C. 1414(a) (1) (C) (iii).)

§ 121a.227 Participation in regular education programs.

(a) Each application must include procedures to insure that to the maximum extent practicable, and consistent with §§ 121a.550–121a.553 of Subpart E, the local educational agency provides special services to enable handicapped children to participate in regular educational programs.

(b) Each application must describe:

(1) The types of alternative placements that are available for handicapped children, and

(2) The number of handicapped children within each disability category who are served in each type of placement.

(20 U.S.C. 1414(a) (1) (C) (iv).)

§ 121a.228 Public control of funds.

Each application must provide assurance satisfactory to the State educational agency that control of funds provided under Part B of the Act and title to property acquired with those funds, is in a public agency for the uses and purposes under this part, and that a public agency administers the funds and property.

(20 U.S.C. 1414(a) (2) (A).)

§ 121a.229 Excess cost.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency uses funds provided under Part B of the Act only for costs which exceed the amount computed under § 121a.184 and which are directly attributable to the education of handicapped children.

(20 U.S.C. 1414(a) (2) (B).)

§ 121a.230 Nonsupplanting.

(a) Each application must provide assurance satisfactory to the State educational agency that the local educational agency uses funds provided under Part B of the Act to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section:

(1) The total amount or average per capita amount of State and local school funds budgeted by the local educational agency for expenditures in the current fiscal year for the education of handicapped children must be at least equal to the total amount or average per capita amount of State and local school funds actually expended for the education of handicapped children in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

(i) Decreases in enrollment of handicapped children; and

(ii) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of school facilities; and

(2) The local educational agency must not use Part B funds to displace State or local funds for any particular cost.

(20 U.S.C. 1414(a) (2) (B).)

Comment. Under statutes such as Title I of the Elementary and Secondary Education Act of 1965, as amended, the requirement is to not supplant funds that "would" have been expended if the Federal funds were not available. The requirement under Part B, however, is to not supplant funds which have been "expended." This use of the past tense suggests that the funds referred to are those which the State or local agency actually spent at some time before the use of the Part B funds. Therefore, in judging compliance with this requirement, the Commissioner looks to see if Part B funds are used for any costs which were previously paid for with State or local funds.

The nonsupplanting requirement prohibits a local educational agency from supplanting State and local funds with Part B funds on either an aggregate basis or for a given expenditure. This means that if an LEA spent $100,000 for special education in FY 1977, it must budget at least $100,000 in FY 1978, unless one of the conditions in § 121a.230 (b) (1) applies.

Whether a local educational agency supplants with respect to a particular cost would depend on the circumstances of the expenditure. For example, if a teacher's salary has been switched from local funding to Part B funding, this would appear to be supplanting. However, if that teacher was taking over a different position (such as a resource room teacher, for example), it would not be supplanting. Moreover, it might be important to consider whether the particular action of a local educational agency led to an increase in services for handicapped children over that which previously existed. The intent of the requirement is to insure that Part B funds are used to increase State and local efforts and are not used to take their place. Compliance would be judged with this aim in mind. The supplanting requirement is not intended to inhibit better services to handicapped children.

§ 121a.231 Comparable services.

(a) Each application must provide assurance satisfactory to the State educational agency that the local educational agency meets the requirements of this section.

(b) A local educational agency may not use funds under Part B of the Act to provide services to handicapped children unless the agency uses State and local funds to provide services to those children which, taken as a whole, are at least comparable to services provided to other handicapped children in that local educational agency.

(c) Each local educational agency shall maintain records which show that the agency meets the requirement in paragraph (b) of this section.

(20 U.S.C. 1414(a) (2) (C).)

Comment. Under the "comparability" requirement, if State and local funds are used to provide certain services, those services must be provided with State and local funds to all handicapped children in the local educational agency who need them. Part B funds may then be used to supplement existing services, or to provide additional services to meet special needs. This, of course, is subject to the other requirements of the Act, including the priorities under §§ 121a.320–121a.324.

§ 121a.232 Information—reports.

Each application must provide that the local educational agency furnishes information (which, in the case of reports relating to performance, is in accordance with specific performance criteria developed by the local educational agency and related to program objectives) as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in the local educational agency's programs for handicapped children.

(20 U.S.C. 1414(a) (3) (A).)

§ 121a.233 Records.

Each application must provide that the local educational agency keeps such records, and affords access to those records, as the State educational agency may find necessary to insure the correctness and verification of the information that the local educational agency furnishes under § 121a.232.

(20 U.S.C. 1414(a) (3) (B).)

§ 121a.234 Public participation.

(a) Each application must:

(1) Provide for making the application and all documents related to the application available to parents and the general public; and

(2) Provide that all evaluations and reports required under § 121a.232 are public information.

(b) In implementing the requirement in paragraph (a)(1), the local educational agency shall use methods for public participation within its jurisdiction which are comparable to those required in § 121a.280–121a.284 of this subpart. However, the local educational agency is not required to hold public hearings.

(20 U.S.C. 1414(a) (4).)

§ 121a.235 Individualized education program.

Each application must include procedures to assure that the local educational agency complies with §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1414(a) (5).)

§ 121a.236 Local policies consistent with statute.

Each application must provide assurance satisfactory to the State educational agency that all policies and programs which the local educational agency establishes and administers are consistent with section 612(1)–(7) and section 613(a) of the Act.

(20 U.S.C. 1414(a) (6).)

§ 121a.237 Procedural safeguards.

Each application must provide assurance satisfactory to the State educational agency that the local educational agency has procedural safeguards which meet the requirements of §§ 121a.500–121a.514 of Subpart E.

(20 U.S.C. 1414(a) (7).)

§ 121a.238 Use of Part B funds.

Each application must describe how the local educational agency will use the funds under Part B of the Act during the next school year.

(20 U.S.C. 1414(a).)

§ 121a.239 Nondiscrimination and employment of handicapped individuals.

(a) Each application must include an assurance that the program assisted under Part B of the Act will be operated in compliance with Title 45 of the Code of Federal Regulations Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from Federal Financial Assistance). The local educational agency may incorporate this assurance by reference if it has already been filed with the Department of Health, Education, and Welfare.

(b) The assurance under paragraph (a) of this section covers, among other things, the specific requirement on employment of handicapped individuals under section 606 of the Act, which states:

> The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

(20 U.S.C. 1405; 29 U.S.C. 794.)

§ 121a.240 Other requirements.

Each local application must include additional procedures and information which the State educational agency may require in order to meet the State annual program plan requirements under §§ 121a.120–121a.151.

(20 U.S.C. 1414(a) (6).)

APPLICATION FROM SECRETARY OF INTERIOR

§ 121a.260 Submission of annual application; approval.

In order to receive payments under this part, the Secretary of Interior shall submit an annual application which:

(a) Meets applicable requirements of section 614(a) of the Act;

(b) Includes monitoring procedures which are consistent with § 121a.601; and

(c) Includes other material as agreed to by the Commissioner and the Secretary of Interior.

(20 U.S.C. 1411(f).)

§ 121a.261 Public participation.

In the development of the application for the Department of Interior, the Secretary of Interior shall provide for public participation consistent with §§ 121a.280–121a.284.

(20 U.S.C. 1411(f).)

§ 121a.262 Use of Part B funds.

(a) The Department of Interior may use five percent of its payments in any fiscal year, or $200,000, whichever is greater, for administrative costs in carrying out the provisions of this Part.

(b) The remainder of the payments to the Secretary of Interior in any fiscal year must be used in accordance with the priorities under §§ 121a.320–121a.324 of Subpart C.

(20 U.S.C. 1411(f).)

§ 121a.263 Applicable regulations.

The Secretary of Interior shall comply with the requirements under Subparts C, E, and F.

(20 U.S.C. 1411(f) (2).)

PUBLIC PARTICIPATION

§ 121a.280 Public hearings before adopting an annual program plan.

(a) Prior to its adoption of an annual program plan, the State educational agency shall:

(1) Make the plan available to the general public,

(2) Hold public hearings, and

(3) Provide an opportunity for comment by the general public on the plan.

(20 U.S.C. 1412(7).)

§ 121a.281 Notice.

(a) The State educational agency shall provide notice to the general public of the public hearings.

(b) The notice must be in sufficient detail to inform the public about:

(1) The purpose and scope of the annual program plan and its relation to Part B of the Education of the Handicapped Act,

(2) The availability of the annual program plan,

(3) The date, time, and location of each public hearing,

(4) The procedures for submitting written comments about the plan, and

(5) The timetable for developing the final plan and submitting it to the Commissioner for approval.

(c) The notice must be published or announced:

(1) In newspapers or other media, or both, with circulation adequate to notify the general public about the hearings, and (2) Enough in advance of the date of the hearings to afford interested parties throughout the State a reasonable opportunity to participate.

(20 U.S.C. 1412(7).)

§ 121a.282 Opportunity to participate; comment period.

(a) The State educational agency shall conduct the public hearings at times and places that afford interested parties throughout the State a reasonable opportunity to participate.

(b) The plan must be available for comment for a period of at least 30 days following the date of the notice under § 121a.281.

(20 U.S.C. 1412(7).)

§ 121a.283 Review of public comments before adopting plan.

Before adopting its annual program plan, the State educational agency shall:

(a) Review and consider all public comments, and

(b) Make any necessary modifications in the plan.

(20 U.S.C. 1412(7).)

§ 121a.284 Publication and availability of approved plan.

After the Commissioner approves an annual program plan, the State educational agency shall give notice in newspapers or other media, or both, that the plan is approved. The notice must name places throughout the State where the plan is available for access by any interested person.

(20 U.S.C. 1412(7).)

Subpart C—Services

FREE APPROPRIATE PUBLIC EDUCATION

§ 121a.300 Timelines for free appropriate public education.

(a) *General.* Each State shall insure that free appropriate public education is available to all handicapped children aged three through eighteen within the State not later than September 1, 1978, and to all handicapped children aged three through twenty-one within the State not later than September 1, 1980.

(b) *Age ranges 3–5 and 18–21.* This paragraph provides rules for applying the requirement in paragraph (a) of this section to handicapped children aged three, four, five, eighteen, nineteen, twenty, and twenty-one:

(1) If State law or a court order requires the State to provide education for handicapped children in any disability category in any of these age groups, the State must make a free appropriate public education available to all handicapped children of the same age who have that disability.

(2) If a public agency provides education to non-handicapped children in any of these age groups, it must make a free appropriate public education available to at least a proportionate number of handicapped children of the same age.

(3) If a public agency provides education to 50 percent or more of its handicapped children in any disability category in any of these age groups, it must make a free appropriate public education available to all of its handicapped children of the same age who have that disability.

(4) If a public agency provides education to a handicapped child in any of these age groups, it must make a free appropriate public education available to that child and provide that child and his or her parents all of the rights under Part B of the Act and this part.

(5) A State is not required to make a free appropriate public education available to a handicapped child in one of these age groups if:

(i) State law expressly prohibits, or does not authorize, the expenditure of public funds to provide education to non-handicapped children in that age group; or

(ii) The requirement is inconsistent with a court order which governs the provision of free public education to handicapped children in that State.

(20 U.S.C. 1412(2)(B); Sen. Rept. No. 94–168 p. 19 (1975).)

Comment. 1. The requirement to make free appropriate public education available applies to all handicapped children within the State who are in the age ranges required under section 121a.300 and who need special education and related services. This includes handicapped children already in school and children with less severe handicaps, who are not covered under the priorities under § 121a.321.

2. In order to be in compliance with § 121a.300, each State must insure that the requirement to identify, locate, and evaluate all handicapped children is fully implemented by public agencies throughout the State. This means that before September 1, 1978, every child who has been referred or is on a waiting list for evaluation (including children in school as well as those not receiving an education) must be evaluated in accordance with §§ 121a.530–121a.533 of Subpart E. If, as a result of the evaluation, it is determined that a child needs special education and related services, an individualized education program must be developed for the child by September 1, 1978, and all other applicable requirements of this part must be met.

3. The requirement to identify, locate, and evaluate handicapped children (commonly referred to as the "child find system") was enacted on August 21, 1974, under Pub. L. 93–380. While each State needed time to establish and implement its child find system, the four year period between August 21, 1974, and September 1, 1978, is considered to be sufficient to insure that the system is fully operational and effective on a State-wide basis.

Under the statute, the age range for the child find requirement (0–21) is greater than the mandated age range for providing free appropriate public education (FAPE). One reason for the broader age requirement under "child find" is to enable States to be aware of and plan for younger children who will require special education and related services. It also ties in with the full educational opportunity goal requirement, which has the same age range as child find. Moreover, while a State is not required to provide "FAPE" to handicapped children below the age ranges mandated under § 121a.300, the State may, at its discretion, extend services to those children, subject to the requirements on priorities under §§ 121a.320–121a.324.

§ 121a.301 Free appropriate public education—methods and payments.

(a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, when it is necessary to place a handicapped child in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement.

(b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child.

(20 U.S.C. 1401(18); 1412(2)(B).)

§ 121a.302 Residential placement.

If placement in a public or private residential program is necessary to provide special education and related services to a handicapped child, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

(20 U.S.C. 1412(2)(B); 1413(a)(4)(B).)

Comment. This requirement applies to placements which are made by public agencies for educational purposes, and includes placements in State-operated schools for the handicapped, such as a State school for the deaf or blind.

§ 121a.303 Proper functioning of hearing aids.

Each public agency shall insure that the hearing aids worn by deaf and hard of hearing children in school are functioning properly.

(20 U.S.C. 1412(2)(B).)

Comment. The report of the House of Representatives on the 1978 appropriation bill includes the following statement regarding hearing aids:

> In its report on the 1976 appropriation bill the Committee expressed concern about the condition of hearing aids worn by children in public schools. A study done at the Committee's direction by the Bureau of Education for the Handicapped reveals that up to one-third of the hearing aids are malfunctioning. Obviously, the Committee expects the Office of Education will ensure that hearing impaired school children are receiving adequate professional assessment, follow-up and services.

(House Report No. 95–381, p. 67 (1977).)

§ 121a.304 Full educational opportunity goal.

(a) Each State educational agency shall insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children in the area served by the public agency.

(b) Subject to the priority requirements under §§ 121a.320–121a.324, a State or local educational agency may use Part B funds to provide facilities, personnel, and services necessary to meet the full educational opportunity goal.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

Comment. In meeting the full educational opportunity goal, the Congress also encouraged local educational agencies to include artistic and cultural activities in programs supported under this part, subject to the priority requirements under §§ 121a.320–121a.324. This point is addressed in the following statements from the Senate Report on Pub. L. 94–142:

> The use of the arts as a teaching tool for the handicapped has long been recognized as a viable, effective way not only of teaching special skills, but also of reaching youngsters who had otherwise been unteachable. The Committee envisions that programs under this bill could well include an arts component and, indeed, urges that local educational agencies include the arts in programs for the handicapped funded under this Act. Such a program could cover both appreciation of the arts by the handicapped youngsters, and the utilization of the arts as a teaching tool per se.
>
> Museum settings have often been another effective tool in the teaching of handicapped children. For example, the Brooklyn Museum has been a leader in developing exhibits utilizing the heightened tactile sensory skill of the blind. Therefore, in light of the national policy concerning the use of museums in Federally-supported education programs enunciated in the Education Amendments of 1974, the Committee also urges local educational agencies to include museums in programs for the handicapped funded under this Act.

(Senate Report No. 94–168, p. 13 (1975).)

§ 121a.305 Program options.

Each public agency shall take steps to insure that its handicapped children have available to them the variety of educational programs and services available to non-handicapped children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

Comment. The above list of program options is not exhaustive, and could include any program or activity in which non-handicapped students participate. Moreover, vocational education programs must be specially designed if necessary to enable a handicapped student to benefit fully from those programs; and the set-aside funds under the Vocational Education Act of 1963, as amended by Pub. L. 94–482, may be used for this purpose. Part B funds may also be used, subject to the priority requirements under §§ 121a.320–121a.324.

§ 121a.306 Nonacademic services.

(a) Each public agency shall take steps to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford handicapped children an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to handicapped persons, and employment of students, including both employment by the public agency and assistance in making outside employment available.

(20 U.S.C. 1412(2)(A); 1414(a)(1)(C).)

§ 121a.307 Physical education.

(a) *General.* Physical education services, specially designed if necessary, must be made available to every handicapped child receiving a free appropriate public education.

(b) *Regular physical education.* Each handicapped child must be afforded the opportunity to participate in the regular physical education program available to non-handicapped children unless:

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's individualized education program.

(c) *Special physical education.* If specially designed physical education is prescribed in a child's individualized education program, the public agency responsible for the education of that child shall provide the services directly, or make arrangements for it to be provided through other public or private programs.

(d) *Education in separate facilities.* The public agency responsible for the education of a handicapped child who is enrolled in a separate facility shall insure that the child receives appropriate physical education services in compliance with paragraphs (a) and (c) of this section.

(20 U.S.C. 1401(16); 1412(5)(B); 1414(a)(6).)

Comment. The Report of the House of Representatives on Pub. L. 94–142 includes the following statement regarding physical education:

> Special education as set forth in the Committee bill includes instruction in physical education, which is provided as a matter of course to all non-handicapped children enrolled in public elementary and secondary schools. The Committee is concerned that although these services are available to and required of all children in our school systems, they are often viewed as a luxury for handicapped children.
>
> * * * * *
>
> The Committee expects the Commissioner of Education to take whatever action is necessary to assure that physical education services are available to all handicapped children, and has specifically included physical education within the definition of special education to make clear that the Committee expects such services, specially designed where necessary, to be provided as an integral part of the educational program of every handicapped child.

(House Report No. 94–332, p. 9 (1975).)

PRIORITIES IN THE USE OF PART B FUNDS

§ 121a.320 Definitions of "first priority children" and "second priority children."

For the purposes of §§ 121a.321–121a.324, the term:

(a) "First priority children" means handicapped children who:

(1) Are in an age group for which the State must make available free appropriate public education under § 121a.300; and

(2) Are not receiving any education.

(b) "Second priority children" means handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education.

(20 U.S.C. 1412(3).)

Comment. After September 1, 1978, there should be no second priority children, since States must insure, as a condition of receiving Part B funds for fiscal year 1979, that all handicapped children will have available a free appropriate public education by that date.

NOTE.—The term "free appropriate public education," as defined in § 121a.4 of Subpart A, means "special education and related services which * * * are provided in conformity with an individualized education program * * *."

New "First priority children" will continue to be found by the State after September 1, 1978 through on-going efforts to identify, locate, and evaluate all handicapped children.

§ 121a.321 Priorities.

(a) Each State and local educational agency shall use funds provided under Part B of the Act in the following order of priorities:

(1) To provide free appropriate public education to first priority children, including the identification, location, and evaluation of first priority children.

(2) To provide free appropriate public education to second priority children, including the identification, location, and evaluation of second priority children.

(3) To meet the other requirements in this part.

(b) The requirements of paragraph (a) of this section do not apply to funds which the State uses for administration under § 121a.620.

(20 U.S.C. 1411 (b)(1)(B), (b)(2)(B), (c)(1)(B), (c)(2)(A)(ii).

(c) State and local educational agencies may not use funds under Part B of the Act for preservice training.

(20 U.S.C. 1413(a)(3); Senate Report No. 94–168, p. 34 (1975).)

Comment. Note that a State educational agency as well as local educational agencies must use Part B funds (except the portion used for State administration) for the priorities. A State may have to set aside a portion of its Part B allotment to be able to serve newly-identified first priority children.

After September 1, 1978, Part B funds may be used:

(1) To continue supporting child identification, location, and evaluation activities;

(2) To provide free appropriate public education to newly identified first priority children;

(3) To meet the full educational opportunities goal required under section 121a.304, including employing additional personnel and providing inservice training, in order to increase the level, intensity and quality of services provided to individual handicapped children; and

(4) To meet the other requirements of Part B.

§ 121a.322 First priority children—school year 1977–1978.

(a) In school year 1977–1978, if a major component of a first priority child's proposed educational program is not available (for example, there is no qualified teacher), the public agency responsible for the child's education shall:

(1) Provide an interim program of services for the child; and

(2) Develop an individualized education program for full implementation no later than September 1, 1978.

(b) A local educational agency may use Part B funds for training or other support services in school year 1977–1978 only if all of its first priority children have available to them at least an interim program of services.

(c) A State educational agency may use Part B funds for training or other support services in school year 1977–1978 only if all first priority children in the State have available to them at least an interim program of services.

(20 U.S.C. 1411 (b), (c).)

Comment. This provision is intended to make it clear that a State or local educational agency may not delay placing a previously unserved (first priority) child until it has, for example, implemented an inservice training program. The child must be placed. After the child is in at least an interim program, the State or local educational agency may use Part B funds for training or other support services needed to provide that child with a free appropriate public education.

§ 121a.323 Services to other children.

If a State or a local educational agency is providing free appropriate public education to all of its first priority children, that State or agency may use funds provided under Part B of the Act:

(a) To provide free appropriate public education to handicapped children who are not receiving any education and who are in the age groups not covered under § 121a.300 in that State; or

(b) To provide free appropriate public education to second priority children; or

(c) Both.

(20 U.S.C. 1411(b)(1)(B), (b)(2)(B), (c)(2)(A)(ii).)

§ 121a.324 Application of local educational agency to use funds for the second priority.

A local educational agency may use funds provided under Part B of the Act for second priority children, if it provides assurance satisfactory to the State educational agency in its application (or an amendment to its application):

(a) That all first priority children have a free appropriate public education available to them;

(b) That the local educational agency has a system for the identification, location, and evaluation of handicapped children, as described in its application; and

(c) That whenever a first priority child is identified, located, and evaluated, the local educational agency makes available a free appropriate public education to the child.

(20 U.S.C. 1411 (b)(1)(B), (c)(1)(B); 1414 (a)(1)(C)(ii).)

INDIVIDUALIZED EDUCATION PROGRAMS

§ 121a.340 Definition.

As used in this part, the term "individualized education program" means a written statement for a handicapped child that is developed and implemented in accordance with §§ 121a.341–121a.349.

(20 U.S.C. 1401(19).)

§ 121a.341 State educational agency responsibility.

(a) *Public agencies.* The State educational agency shall insure that each public agency develops and implements an individualized education program for each of its handicapped children.

(b) *Private schools and facilities.* The State educational agency shall insure that an individualized education program is developed and implemented for each handicapped child who:

(1) Is placed in or referred to a private school or facility by a public agency; or

(2) Is enrolled in a parochial or other private school and receives special education or related services from a public agency.

(20 U.S.C. 1412 (4), (6); 1413(a)(4).)

Comment: This section applies to all public agencies, including other State agencies (e.g., departments of mental health and welfare), which provide special education to a handicapped child either directly, by contract or through other arrangements. Thus, if a State welfare agency contracts with a private school or facility to provide special education to a handicapped child, that agency would be responsible for insuring that an individualized education program is developed for the child.

§ 121a.342 When individualized education programs must be in effect.

(a) On October 1, 1977, and at the beginning of each school year thereafter, each public agency shall have in effect an individualized education program for every handicapped child who is receiving special education from that agency.

(b) An individualized education program must:

(1) Be in effect before special education and related services are provided to a child; and

(2) Be implemented as soon as possible following the meetings under § 121a.343.

(20 U.S.C. 1412 (2)(B), (4), (6); 1414(a)(5); Pub. L. 94–142, Sec. 8(c) (1975).)

Comment. Under paragraph (b)(2), it is expected that a handicapped child's individualized education program (IEP) will be implemented immediately following the meetings under § 121a.343. An exception to this would be (1) when the meetings occur during the summer or a vacation period, or (2) where there are circumstances which require a short delay (e.g., working out transportation arrangements). However, there can be no undue delay in providing special education and related services to the child.

§ 121a.343 Meetings.

(a) *General.* Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising a handicapped child's individualized education program.

(b) *Handicapped children currently served.* If the public agency has determined that a handicapped child will receive special education during school year 1977–1978, a meeting must be held early enough to insure that an individualized education program is developed by October 1, 1977.

(c) *Other handicapped children.* For a handicapped child who is not included under paragraph (b) of this action, a meeting must be held within thirty calendar days of a determination that the child needs special education and related services.

(d) *Review.* Each public agency shall initiate and conduct meetings to periodically review each child's individualized education program and if appropriate revise its provisions. A meeting must be held for this purpose at least once a year.

(20 U.S.C. 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. The dates on which agencies must have individualized education programs (IEPs) in effect are specified in § 121a.342 (October 1, 1977, and the beginning of each school year thereafter). However, except for new handicapped children (i.e., those evaluated and determined to need special education after October 1, 1977), the timing of meetings to develop, review, and revise IEPs is left to the discretion of each agency.

In order to have IEPs in effect by the dates in § 121a.342, agencies could hold meetings at the end of the school year or during the summer preceding those dates. In meeting the October 1, 1977 timeline, meetings could be conducted up through the October 1 date. Thereafter, meetings may be held any time throughout the year, as long as IEPs are in effect at the beginning of each school year.

The statute requires agencies to hold a meeting at least once each year in order to review, and if appropriate revise, each child's IEP. The timing of those meetings could be on the anniversary date of the last IEP meeting on the child, but this is left to the discretion of the agency.

§ 121a.344 Participants in meetings.

(a) *General.* The public agency shall insure that each meeting includes the following participants:

(1) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

(2) The child's teacher.

(3) One or both of the child's parents, subject to § 121a.345.

(4) The child, where appropriate.

(5) Other individuals at the discretion of the parent or agency.

(b) *Evaluation personnel.* For a handicapped child who has been evaluated for the first time, the public agency shall insure:

(1) That a member of the evaluation team participates in the meeting; or

(2) That the representative of the public agency, the child's teacher, or some other person is present at the meeting, who is knowledgeable about the evaluation procedures used with the child and is familiar with the results of the evaluation.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. 1. In deciding which teacher will participate in meetings on a child's individualized education program, the agency may wish to consider the following possibilities:

(a) For a handicapped child who is receiving special education, the "teacher" could be the child's special education teacher. If the child's handicap is a speech impairment, the "teacher" could be the speech-language pathologist.

(b) For a handicapped child who is being considered for placement in special education, the "teacher" could be the child's regular teacher, or a teacher qualified to provide education in the type of program in which the child may be placed, or both.

(c) If the child is not in school or has more than one teacher, the agency may designate which teacher will participate in the meeting.

2. Either the teacher or the agency representative should be qualified in the area of the child's suspected disability.

3. For a child whose primary handicap is a speech impairment, the evaluation personnel participating under paragraph (b)(1) of this section would normally be the speech-language pathologist.

§ 121a.345 Parent participation.

(a) Each public agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including:

(1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) The notice under paragraph (a)(1) of this section must indicate the purpose, time, and location of the meeting, and who will be in attendance.

(c) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents and any responses received, and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(f) The public agency shall give the parent, on request, a copy of the individualized education program.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6); 1414(a)(5).)

Comment. The notice in paragraph (a) could also inform parents that they may bring other people to the meeting. As indicated in paragraph (c), the procedure used to notify parents (whether oral or written or both) is left to the discretion of the agency, but the agency must keep a record of its efforts to contact parents.

§ 121a.346 Content of individualized education program.

The individualized education program for each child must include:

(a) A statement of the child's present levels of educational performance;

(b) A statement of annual goals, including short term instructional objectives;

(c) A statement of the specific special education and related services to be provided to the child, and the extent to which the child will be able to participate in regular educational programs;

(d) The projected dates for initiation of services and the anticipated duration of the services; and

(e) Appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether the short term instructional objectives are being achieved.

(20 U.S.C. 1401(19); 1412 (2)(B), (4), (6), 1414(a)(5); Senate Report No. 94–168, p. 11 (1975).)

§ 121a.347 Private school placements.

(a) *Developing individualized education programs.* (1) Before a public agency places a handicapped child in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an individualized education program for the child in accordance with § 121a.343.

(2) The agency shall insure that a representative of the private school facility attends the meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school or facility, including individual or conference telephone calls.

(3) The public agency shall also develop an individualized educational program for each handicapped child who was placed in a private school or facility by the agency before the effective date of these regulations.

(b) *Reviewing and revising individualized education programs.* (1) After a handicapped child enters a private school or facility, any meetings to review and revise the child's individualized education program may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency shall insure that the parents and an agency representative:

(i) Are involved in any decision about the child's individualized education program; and

(ii) Agree to any proposed changes in the program before those changes are implemented.

(c) *Responsibility.* Even if a private school or facility implements a child's individualized education program, responsibility for compliance with this part remains with the public agency and the State educational agency.

(20 U.S.C. 1413(a)(4)(B).)

§ 121a.348 Handicapped children in parochial or other private schools.

If a handicapped child is enrolled in a parochial or other private school and receives special education or related services from a public agency, the public agency shall:

(a) Initiate and conduct meetings to develop, review, and revise an individualized education program for the child, in accordance with § 121a.343; and

(b) Insure that a representative of the parochial or other private school attends each meeting. If the representative cannot attend, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls.

(20 U.S.C. 1413(a)(4)(A).)

§ 121a.349 Individualized education program—accountability.

Each public agency must provide special education and related services to a handicapped child in accordance with an individualized education program. However, Part B of the Act does not require that any agency, teacher, or other person be held accountable if a child does not achieve the growth projected in the annual goals and objectives.

(20 U.S.C. 1412(2)(B); 1414(a) (5), (6); Cong. Rec. at H 7152 (daily ed., July 21, 1975).)

Comment. This section is intended to relieve concerns that the individualized education program constitutes a guarantee by the public agency and the teacher that a child will progress at a specified rate. However, this section does not relieve agencies and teachers from making good faith efforts to assist the child in achieving the objectives and goals listed in the individualized education program. Further, the section does not limit a parent's right to complain and ask for revisions of the child's program, or to invoke due process procedures, if the parent feels that these efforts are not being made.

DIRECT SERVICE BY THE STATE EDUCATIONAL AGENCY

§ 121a.360 Use of local educational agency allocation for direct services.

(a) A State educational agency may not distribute funds to a local educational agency, and shall use those funds to insure the provision of a free appropriate public education to handicapped children residing in the area served by the local educational agency, if the local educational agency, in any fiscal year:

(1) Is entitled to less than $7,500 for that fiscal year (beginning with fiscal year 1979);

(2) Does not submit an application that meets the requirements of §§ 121a.220–121a.240;

(3) Is unable or unwilling to establish and maintain programs of free appropriate public education;

(4) Is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain those programs; or

(5) Has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of those children.

(b) In meeting the requirements of paragraph (a) of this section, the State educational agency may provide special education and related services directly, by contract, or through other arrangements.

(c) The excess cost requirements under §§ 121a.182–121a.186 do not apply to the State educational agency.

(20 U.S.C. 1411(c)(4); 1413(b); 1414(d).)

Comment. Section 121a.360 is a combination of three provisions in the statute (Sections 611(c)(4), 613(b), and 614(d)). This section focuses mainly on the State's administration and use of local entitlements under Part B.

The State educational agency, as a recipient of Part B funds is responsible for insuring that all public agencies in the State comply with the provisions of the Act, regardless of whether they receive Part B funds. If a local educational agency elects not to apply for its Part B entitlement, the State would be required to use those funds to insure that a free appropriate public education (FAPE) is made available to children residing in the area served by that local agency. However, if the local entitlement is not sufficient for this purpose, additional State or local funds would have to be expended in order to insure that "FAPE" and the other requirements of the Act are met.

Moreover, if the local educational agency is the recipient of any other Federal funds, it would have to be in compliance with Subpart D of the regulations for section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84). It should be noted that the term "FAPE" has different meanings under Part B and section 504. For example, under Part

B, "FAPE" is a statutory term which requires special education and related services to be provided in accordance with an individualized education program (IEP). However, under section 504, each recipient must provide an education which includes services that are "designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met * * *" Those regulations state that implementation of an IEP, in accordance with Part B, is one means of meeting the "FAPE" requirement.

§ 121a.361 Nature and location of services.

The State educational agency may provide special education and related services under § 121a.360(a) in the manner and at the location it considers appropriate. However, the manner in which the education and services are provided must be consistent with the requirements of this part (including the least restrictive environment provisions in §§ 121a.550–121a.556 of Subpart E).

(20 U.S.C. 1414(d).)

§ 121a.370 Use of State educational agency allocation for direct and support services.

(a) The State shall use the portion of its allocation it does not use for administration to provide support services and direct services in accordance with the priority requirements under §§ 121a.320–121a.324.

(b) For the purposes of paragraph (a) of this section:

(1) "Direct services" means services provided to a handicapped child by the State directly, by contract, or through other arrangements.

(2) "Support services" includes implementing the comprehensive system of personnel development under §§ 121a.-380–121a.388, recruitment and training of hearing officers and surrogate parents, and public information and parent training activities relating to a free appropriate public education for handicapped children.

(20 U.S.C. 1411(b)(2), (c)(2).)

§ 121a.371 State matching.

Beginning with the period July 1, 1978–June 30, 1979, and for each following year, the funds that a State uses for direct and support services under § 121a.370 most be matched on a program basis by the State from funds other than Federal funds. This requirement does not apply to funds that the State uses under § 121a.360.

(20 U.S.C. 1411(c)(2)(B), (c)(4)(B).)

Comment. The requirement in § 121a.371 would be satisfied if the State can document that the amount of State funds expended for each major program area (e.g., the comprehensive system of personnel development) is at least equal to the expenditure of Federal funds in that program area.

§ 121a.372 Applicability of nonsupplanting requirement.

Beginning with funds appropriated for Fiscal Year 1979 and for each following Fiscal Year, the requirement in section 613(a)(9) of the Act, which prohibits supplanting with Federal funds, does not apply to funds that the State uses from its allocation under § 121a.706(a) of Subpart G for administration, direct services, or support services.

(20 U.S.C. 1411(c)(3).)

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

§ 121a.380 Scope of system.

Each annual program plan must include a description of programs and procedures for the development and implementation of a comprehensive system of personnel development which includes:

(a) The inservice training of general and special educational instructional, related services, and support personnel;

(b) Procedures to insure that all personnel necessary to carry out the purposes of the Act are qualified (as defined in § 121a.12 of Subpart A) and that activities sufficient to carry out this personnel development plan are scheduled; and

(c) Effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices and materials developed through those projects.

(20 U.S.C. 1413(a)(3).)

§ 121a.381 Participation of other agencies and institutions.

(a) The State educational agency must insure that all public and private institutions of higher education, and other agencies and organizations (including representatives of handicapped, parent, and other advocacy organizations) in the State which have an interest in the preparation of personnel for the education of handicapped children, have an opportunity to participate fully in the development, review, and annual updating of the comprehensive system of personnel development.

(b) The annual program plan must describe the nature and extent of participation under paragraph (a) of this section and must describe responsibilities of the State educational agency, local educational agencies, public and private institutions of higher education, and other agencies:

(1) With respect to the comprehensive system as a whole, and

(2) With respect to the personnel development plan under § 121a.383.

(20 U.S.C. 1412(7)(A); 1413(a)(3).)

§ 121a.382 Inservice training.

(a) As used in this section, "inservice training" means any training other than that received by an individual in a full-time program which leads to a degree.

(b) Each annual program plan must provide that the State educational agency:

(1) Conducts an annual needs assessment to determine if a sufficient number of qualified personnel are available in the State; and

(2) Initiates inservice personnel development programs based on the assessed needs of State-wide significance related to the implementation of the Act.

(c) Each annual program plan must include the results of the needs assessment under paragraph (b)(1) of this section, broken out by need for new personnel and need for retrained personnel.

(d) The State educational agency may enter into contracts with institutions of higher education, local educational agencies or other agencies, institutions, or organizations (which may include parent, handicapped, or other advocacy organizations), to carry out:

(1) Experimental or innovative personnel development programs;

(2) Development or modification of instructional materials; and

(3) Dissemination of significant information derived from educational research and demonstration projects.

(e) Each annual program plan must provide that the State educational agency insures that ongoing inservice training programs are available to all personnel who are engaged in the education of handicapped children, and that these programs include:

(1) The use of incentives which insure participation by teachers (such as released time, payment for participation, options for academic credit, salary step credit, certification renewal, or updating professional skills);

(2) The involvement of local staff; and

(3) The use of innovative practices which have been found to be effective.

(f) Each annual program plan must:

(1) Describe the process used in determining the inservice training needs of personnel engaged in the education of handicapped children;

(2) Identify the areas in which training is needed (such as individualized education programs, non-discriminatory testing, least restrictive environment, procedural safeguards, and surrogate parents);

(3) Specify the groups requiring training (such as special teachers, regular teachers, administrators, psychologists, speech-language pathologists, audiologists, physical education teachers, therapeutic recreation specialists, physical therapists, occupational therapists, medical personnel, parents, volunteers, hearing officers, and surrogate parents);

(4) Describe the content and nature of training for each area under paragraph (f)(2) of this section;

(5) Describe how the training will be provided in terms of (i) geographical scope (such as Statewide, regional, or local), and (ii) staff training source (such as college and university staffs, State and local educational agency personnel, and non-agency personnel);

(6) Specify: (i) The funding sources to be used, and

(ii) The time frame for providing it; and

(7) Specify procedures for effective evaluation of the extent to which program objectives are met.

(20 U.S.C. 1413(a) (3).)

§ 121a.383 Personnel development plan.

Each annual program plan must: (a) Include a personnel development plan which provides a structure for personnel planning and focuses on preservice and inservice education needs;

(b) Describe the results of the needs assessment under § 121a.382(b) (1), with respect to identifying needed areas of training, and assigning priorities to those areas; and

(c) Identify the target populations for personnel development, including general education and special education instructional and administrative personnel, support personnel, and other personnel (such as paraprofessionals, parents, surrogate parents, and volunteers).

(20 U.S.C. 1413(a) (3).)

§ 121a.384 Dissemination.

(a) Each annual program plan must include a description of the State's procedures for acquiring, reviewing, and disseminating to general and special educational instructional and support personnel, administrators of programs for handicapped children, and other interested agencies and organizations (including parent, handicapped, and other advocacy organizations) significant information and promising practices derived from educational research, demonstration, and other projects.

(b) Dissemination includes:

(1) Making those personnel, administrators, agencies, and organizations aware of the information and practices;

(2) Training designed to enable the establishment of innovative programs and practices targeted on identified local needs; and

(3) Use of instructional materials and other media for personnel development and instructional programming.

(20 U.S.C. 1413(a) (3).)

§ 121a.385 Adoption of educational practices.

(a) Each annual program plan must provide for a statewide system designed to adopt, where appropriate, promising educational practices and materials proven effective through research and demonstration.

(b) Each annual program plan must provide for thorough reassessment of educational practices used in the State.

(c) Each annual program plan must provide for the identification of State, local, and regional resources (human and material) which will assist in meeting the State's personnel preparation needs.

(20 U.S.C. 1413(a) (3).)

§ 121a.386 Evaluation.

Each annual program plan must include:

(a) Procedures for evaluating the overall effectiveness of:

(1) The comprehensive system of personnel development in meeting the needs for personnel, and

(2) The procedures for administration of the system; and

(b) A description of the monitoring activities that will be undertaken to assure the implementation of the comprehensive system of personnel development.

(20 U.S.C. 1413(a) (3).)

§ 121a.387 Technical assistance to local educational agencies.

Each annual program plan must include a description of technical assistance that the State educational agency gives to local educational agencies in their implementation of the State's comprehensive system of personnel development.

(20 U.S.C. 1413(a) (3).)

Subpart D—Private Schools

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS PLACED OR REFERRED BY PUBLIC AGENCIES

§ 121a.400 Applicability of §§ 121a.401–121a.403.

Sections 121a.401–121a.403 apply only to handicapped children who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

(20 U.S.C. 1413(a) (4) (B).)

§ 121a.401 Responsibility of State educational agency.

Each State educational agency shall insure that a handicapped child who is placed in or referred to a private school or facility by a public agency:

(a) Is provided special education and related services:

(1) In conformance with an individualized education program which meets the requirements under §§ 121a.340–121a.349 of Subpart C;

(2) At no cost to the parents; and

(3) At a school or facility which meets the standards that apply to State and local educational agencies (including the requirements in this part); and

(b) Has all of the rights of a handicapped child who is served by a public agency.

(20 U.S.C. 1412(a) (4) (B).)

§ 121a.402 Implementation by State educational agency.

In implementing § 121a.401, the State educational agency shall:

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a handicapped child; and

(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards which apply to them.

(20 U.S.C. 1413(a) (4) (B).)

§ 121a.403 Placement of children by parents.

(a) If a handicapped child has available a free appropriate public education and the parents choose to place the child in a private school or facility, the public agency is not required by this part to pay for the child's education at the private school or facility. However, the public agency shall make services available to the child as provided under §§ 121a.450–121a.460.

(b) Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures under §§ 121a.500–121a.514 of Subpart E.

(20 U.S.C. 1412(2) (B); 1415).)

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS NOT PLACED OR REFERRED BY PUBLIC AGENCIES

§ 121a.450 Applicability of §§ 121a.451–121a.460.

As used in §§ 121a.451–121a.460, "private school handicapped children" means handicapped children enrolled in private schools or facilities other than handicapped children covered under §§ 121a.400–121a.403.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.451 State educational agency responsibility.

The State educational agency shall insure that:

(a) To the extent consistent with their number and location in the State, provision is made for the participation of private school handicapped children in the program assisted or carried out under this part by providing them with special education and related services; and

(b) The other requirements in §§ 121a.452–121a.460 are met.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.452 Local educational agency responsibility.

(a) Each local educational agency shall provide special education and related services designed to meet the needs of private school handicapped children residing in the jurisdiction of the agency.

(b) Each local educational agency shall provide private school handicapped children with genuine opportunities to participate in special education and related services consistent with the number of those children and their needs.

(20 U.S.C. 1413(a) (4) (A); 1414(a) (6).)

§ 121a.453 Determination of needs, number of children, and types of services.

The needs of private school handicapped children, the number of them who will participate under this part, and the types of special education and related services which the local educational agency will provide for them must be determined after consultation with persons knowledgeable of the needs of these children, on a basis comparable to that used in providing for the participation under this part of handicapped children enrolled in public schools.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.454 Service arrangements.

Services to private school handicapped children may be provided through such arrangements as dual enrollment, educational radio and television, and the provision of mobile educational services and equipment.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.455 Differences in services to private school handicapped children.

A local educational agency may provide special education and related services to private school handicapped children which are different from the special education and related services it provides to public school children, if:

(a) The differences are necessary to meet the special needs of the private school handicapped children, and

(b) The special education and related services are comparable in quality, scope, and opportunity for participation to those provided to public school children with needs of equal importance.

(20 U.S.C. 1413(a) (4) (a); *Wheeler v. Barrera*, 417 U.S. 402 (1974).)

§ 121a.456 Personnel.

(a) Public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by the handicapped children for whose needs those services were designed, and only when those services are not normally provided by the private school.

(b) Each State or local educational agency providing services to children enrolled in private schools shall maintain continuing administrative control and direction over those services.

(c) The services provided with funds under Part B of the Act for eligible handicapped children enrolled in private schools may not include:

(1) The payment of salaries of teachers or other employees of private schools except for services performed outside their regular hours of duty and under public supervision and control; or

(2) The construction of private school facilities.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.457 Equipment.

(a) Equipment acquired with funds under Part B of the Act may be placed on private school premises for a limited period of time, but the title to and administrative control over all equipment must be retained and exercised by a public agency.

(b) In exercising administrative control, the public agency shall keep records of and account for the equipment, and shall insure that the equipment is used solely for the purposes of the program or project, and remove the equipment from the private school premises if necessary to avoid its being used for other purposes or if it is no longer needed for the purposes of the program or project.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.458 Prohibition of segregation.

Programs or projects carried out in public facilities, and involving joint participation by eligible handicapped children enrolled in private schools and handicapped children enrolled in public schools, may not include classes that are separated on the basis of school enrollment or the religious affiliations of the children.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.459 Funds and property not to benefit private school.

Funds provided under Part B of the Act and property derived from those funds may not inure to the benefit of any private school.

(20 U.S.C. 1413(a) (4) (A).)

§ 121a.460 Existing level of instruction.

Provisions for serving private school handicapped children may not include the financing of the existing level of instruction in the private schools.

(20 U.S.C. 1413(a) (4) (A).)

Subpart E—Procedural Safeguards

Due Process Procedures for Parents and Children

§ 121a.500 Definitions of "consent", "evaluation", and "personally identifiable".

As used in this part: "Consent" means that: (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) which will be released and to whom; and

(c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

"Evaluation" means procedures used in accordance with §§ 121a.530–121a.534 to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. The term means procedures used selectively with an individual child and does not include basic tests administered to or procedures used with all children in a school, grade, or class.

"Personally identifiable" means that information includes:

(a) The name of the child, the child's parent, or other family member;

(b) The address of the child;

(c) A personal identifier, such as the child's social security number or student number; or

(d) A list of personal characteristics or other information which would make it possible to identify the child with reasonable certainty.

(20 U.S.C. 1415, 1417 (c).)

§ 121a.501 General responsibility of public agencies.

Each State educational agency shall insure that each public agency establishes and implements procedural safeguards which meet the requirements of §§ 121a.500–121a.514.

(20 U.S.C. 1415(a).)

§ 121a.502 Opportunity to examine records.

The parents of a handicapped child shall be afforded, in accordance with the procedures in §§ 121a.562–121a.569 an opportunity to inspect and review all education records with respect to:

(a) The identification, evaluation, and educational placement of the child, and

(b) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b) (1) (A).)

§ 121a.503 Independent educational evaluation.

(a) *General.* (1) The parents of a handicapped child have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

(3) For the purposes of this part:

(i) "Independent educational evaluation" means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.

(ii) "Public expense" means that the public agency either pays for the full cost of the evaluation or insures that the evaluation is otherwise provided at no cost to the parent, consistent with § 121a.301 of Subpart C.

(b) *Parent right to evaluation at public expense.* A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. However, the public agency may initiate a hearing under § 121a.506 of this subpart to show that its evaluation is appropriate. If the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(c) *Parent initiated evaluations.* If the parent obtains an independent educational evaluation at private expense, the results of the evaluation:

(1) Must be considered by the public agency in any decision made with respect to the provision of a free appropriate public education to the child, and

(2) May be presented as evidence at a hearing under this subpart regarding that child.

(d) *Requests for evaluations by hearing officers.* If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense.

(e) *Agency criteria.* Whenever an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the public agency uses when it initiates an evaluation.

(20 U.S.C. 1415(b) (1) (A).)

§ 121a.504 Prior notice; parent consent.

(a) *Notice.* Written notice which meets the requirements under § 121a.505 must be given to the parents of a handicapped child a reasonable time before the public agency:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child.

(b) *Consent.* (1) Parental consent must be obtained before:

(i) Conducting a preplacement evaluation; and

(ii) Initial placement of a handicapped child in a program providing special education and related services.

(2) Except for preplacement evaluation and initial placement, consent may not be required as a condition of any benefit to the parent or child.

(c) *Procedures where parent refuses consent.* (1) Where State law requires parental consent before a handicapped child is evaluated or initially provided special education and related services, State procedures govern the public agency in overriding a parent's refusal to consent.

(2)(i) Where there is no State law requiring consent before a handicapped child is evaluated or initially provided special education and related services, the public agency may use the hearing procedures in §§ 121a.506–121a.508 to determine if the child may be evaluated or initially provided special education and related services without parental consent.

(ii) If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the child without the parent's consent, subject to the parent's rights under §§ 121a.510—121a.513.

(20 U.S.C. 1415(b) (1) (C), (D).)

Comment. 1. Any changes in a child's special education program, after the initial placement, are not subject to parental consent under Part B, but are subject to the prior notice requirement in paragraph (a) and the individualized education program requirements in Subpart C.

2. Paragraph (c) means that where State law requires parental consent before evaluation or before special education and related services are initially provided, and the parent refuses (or otherwise withholds) consent, State procedures, such as obtaining a court order authorizing the public agency to conduct the evaluation or provide the education and related services, must be followed.

If, however, there is no legal requirement for consent outside of these regulations, the public agency may use the due process procedures under this subpart to obtain a decision to allow the evaluation or services without parental consent. The agency must notify the parent of its actions, and the parent has appeal rights as well as rights at the hearing itself.

§ 121a.505 Content of notice.

(a) The notice under § 121a.504 must include:

(1) A full explanation of all of the procedural safeguards available to the parents under Subpart E;

(2) A description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(3) A description of each evaluation procedure, test, record, or report the agency uses as a basis for the proposal or refusal; and

(4) A description of any other factors which are relevant to the agency's proposal or refusal.

(b) The notice must be:

(1) Written in language understandable to the general public, and

(2) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the State or local educational agency shall take steps to insure:

(1) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(2) That the parent understands the content of the notice, and

(3) That there is written evidence that the requirements in paragraph (c) (1) and (2) of this section have been met.

(20 U.S.C. 1415(b) (1) (D))

§ 121a.506 Impartial due process hearing.

(a) A parent or a public educational agency may initiate a hearing on any of the matters described in § 121a.504(a) (1) and (2).

(b) The hearing must be conducted by the State educational agency or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the State educational agency.

(c) The public agency shall inform the parent of any free or low-cost legal and other relevant services available in the area if:

(1) The parent requests the information; or

(2) The parent or the agency initiates a hearing under this section.

(20 U.S.C. 1415(b) (2).)

Comment: Many States have pointed to the success of using mediation as an intervening step prior to conducting a formal due process hearing. Although the process of mediation is not required by the statute or these regulations, an agency may wish to suggest mediation in disputes concerning the identification, evaluation, and educational placement of handicapped children, and the provision of a free appropriate public education to those children. Mediations have been conducted by members of State educational agencies or local educational agency personnel who were not previously involved in the particular case. In many cases, mediation leads to resolution of differences between parents and agencies without the development of an adversarial relationship and with minimal emotional stress. However, mediation may not be used to deny or delay a parent's rights under this subpart.

§ 121a.507 Impartial hearing officer.

(a) A hearing may not be conducted:

(1) By a person who is an employee of a public agency which is involved in the education or care of the child, or

(2) By any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

(b) A person who otherwise qualifies to conduct a hearing under paragraph (a) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(c) Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(20 U.S.C. 1414(b) (2).)

§ 121a.508 Hearing rights.

(a) Any party to a hearing has the right to:

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five days before the hearing;

(4) Obtain a written or electronic verbatim record of the hearing;

(5) Obtain written findings of fact and decisions. (The public agency shall transmit those findings and decisions, after deleting any personally identifiable information, to the State advisory panel established under Subpart F).

(b) Parents involved in hearings must be given the right to:

(1) Have the child who is the subject of the hearing present; and

(2) Open the hearing to the public.

(20 U.S.C. 1415(d).)

§ 121a.509 Hearing decision; appeal.

A decision made in a hearing conducted under this subpart is final, unless a party to the hearing appeals the decision under § 121a.510 or § 121a.511.

(20 U.S.C. 1415(c).)

§ 121a.510 Administrative appeal; impartial review.

(a) If the hearing is conducted by a public agency other than the State educational agency, any party aggrieved by the findings and decision in the hearing may appeal to the State educational agency.

(b) If there is an appeal, the State educational agency shall conduct an impartial review of the hearing. The official conducting the review shall:

(1) Examine the entire hearing record;

(2) Insure that the procedures at the hearing were consistent with the requirements of due process;

(3) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in § 121a.508 apply;

(4) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(5) Make an independent decision on completion of the review; and

(6) Give a copy of written findings and the decision to the parties.

(c) The decision made by the reviewing official is final, unless a party brings a civil action under § 121a.512.

(20 U.S.C. 1415 (c), (d); H. Rep. No. 94-664, at p. 49 (1975).)

Comment. 1. The State educational agency may conduct its review either directly or through another State agency acting on its behalf. However, the State educational agency remains responsible for the final decision on review.

2. All parties have the right to continue to be represented by counsel at the State administrative review level, whether or not the reviewing official determines that a further hearing is necessary. If the reviewing official decides to hold a hearing to receive additional evidence, the other rights in section 121a.508, relating to hearings, also apply.

§ 121a.511 Civil action.

Any party aggrevied by the findings and decision made in a hearing who does not have the right to appeal under § 121a.510 of this subpart, and any party aggrieved by the decision of a reviewing officer under § 121a.510 has the right to bring a civil action under section 615(e) (2) of the Act.

(20 U.S.C. 1415.)

§ 121a.512 Timeliness and convenience of hearings and reviews.

(a) The public agency shall insure that not later than 45 days after the receipt of a request for a hearing:

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The State educational agency shall insure that not later than 30 days after the receipt of a request for a review:

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.

(20 U.S.C. 1415.)

§ 121a.513 Child's status during proceedings.

(a) During the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement.

(b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

(20 U.S.C. 1415(e) (3).)

Comment. Section 121a.513 does not permit a child's placement to be changed during a complaint proceeding, unless the parents and agency agree otherwise. While the placement may not be changed, this does not preclude the agency from using its normal procedures for dealing with children who are endangering themselves or others.

§ 121a.514 Surrogate parents.

(a) *General.* Each public agency shall insure that the rights of a child are protected when:

(1) No parent (as defined in § 121a.10) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of public agency.* The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method (1) for determining whether a child needs a surrogate parent, and (2) for assigning a surrogate parent to the child.

(c) *Criteria for selection of surrogates.* (1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies shall insure that a person selected as a surrogate:

(i) Has no interest that conflicts with the interests of the child he or she represents; and

(ii) Has knowledge and skills, that insure adequate representation of the child.

(d) *Non-employee requirement; compensation.* (1) A person assigned as a surrogate may not be an employee of a public agency which is involved in the education or care of the child.

(2) A person who otherwise qualifies to be a surrogate parent under paragraph (c) and (d) (1) of this section, is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) *Responsibilities.* The surrogate parent may represent the child in all matters relating to:

(1) The identification, evaluation, and educational placement of the child, and

(2) The provision of a free appropriate public education to the child.

(20 U.S.C. 1415(b) (1) (B).)

PROTECTION IN EVALUATION PROCEDURES

§ 121a.530 General.

(a) Each State educational agency shall insure that each public agency establishes and implements procedures which meet the requirements of §§ 121a.-530–121a.534.

(b) Testing and evaluation materials and procedures used for the purposes of evaluation and placement of handicapped children must be selected and administered so as not to be racially or culturally discriminatory.

(20 U.S.C. 1412(5) (C).)

§ 121a.531 Preplacement evaluation.

Before any action is taken with respect to the initial placement of a handicapped child in a special education program, a full and individual evaluation of the child's educational needs must be conducted in accordance with the requirements of § 121a.532.

(20 U.S.C. 1412(5) (C).)

§ 121a.532 Evaluation procedures.

State and local educational agencies shall insure, at a minimum, that:

(a) Tests and other evaluation materials:

(1) Are provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;

(2) Have been validated for the specific purpose for which they are used; and

(3) Are administered by trained personnel in conformance with the instructions provided by their producer;

(b) Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient;

(c) Tests are selected and administered so as best to ensure that when a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level of whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (except where those skills are the factors which the test purports to measure);

(d) No single procedure is used as the sole criterion for determining an appropriate educational program for a child; and

(e) The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability.

(f) The child is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(20 U.S.C. 1412(5) (C).)

Comment. Children who have a speech impairment as their primary handicap may not need a complete battery of assessments (e.g., psychological, physical, or adaptive behavior). However, a qualified speech-language pathologist would (1) evaluate each speech-impaired child using procedures that are appropriate for the diagnosis and appraisal of speech and language disorders, and (2) where necessary, make referrals for additional assessments needed to make an appropriate placement decision.

§ 121a.533 Placement procedures.

(a) In interpreting evaluation data and in making placement decisions, each public agency shall:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

(2) Insure that information obtained from all of these sources is documented and carefully considered;

(3) Insure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(4) Insure that the placement decision is made in conformity with the least restrictive environment rules in §§ 121a.550–121a.554.

(b) If a determination is made that a child is handicapped and needs special education and related services, an individualized education program must be developed for the child in accordance with §§ 121a.340–121a.349 of Subpart C.

(20 U.S.C. 1412(5) (C); 1414(a) (5).)

Comment. Paragraph (a)(1) includes a list of examples of sources that may be used by a public agency in making placement decisions. The agency would not have to use all the sources in every instance. The point of the requirement is to insure that more than one source is used in interpreting evaluation data and in making placement decisions. For example, while all of the named sources would have to be used for a child whose suspected disability is mental retardation, they would not be necessary for certain other handicapped children, such as a child who has a severe articulation disorder as his primary handicap. For such a child, the speech-language pathologist, in complying with the multisource requirement, might use (1) a standardized test of articulation, and (2) observation of the child's articulation behavior in conversational speech.

§ 121a.534 Reevaluation.

Each State and local educational agency shall insure:

(a) That each handicapped child's individualized education program is reviewed in accordance with §§ 121a.340—121a.349 of Subpart C, and

(b) That an evaluation of the child, based on procedures which meet the requirements under § 121a.532, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

(20 U.S.C. 1412(5) (c).)

LEAST RESTRICTIVE ENVIRONMENT

§ 121a.550 General.

(a) Each State educational agency shall insure that each public agency establishes and implements procedures which meet the requirements of §§ 121a.550–121a.556.

(b) Each public agency shall insure:

(1) That to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and

(2) That special classes, separate schooling or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(20 U.S.C. 1412(5)(B); 1414(a) (1) (C) (iv).)

§ 121a.551 Continuum of alternative placements.

(a) Each public agency shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.

(b) The continuum required under paragraph (a) of this section must:

(1) Include the alternative placements listed in the definition of special education under § 121a.13 of Subpart A (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(20 U.S.C. 1412(5) (B).)

§ 121a.552 Placements.

Each public agency shall insure that:

(a) Each handicapped child's educational placement:

(1) Is determined at least annually,

(2) Is based on his or her individualized education program, and

(3) Is as close as possible to the child's home;

(b) The various alternative placements included under § 121a.551 are available to the extent necessary to implement the individualized education program for each handicapped child;

(c) Unless a handicapped child's individualized education program requires some other arrangement, the child is educated in the school which he or she would attend if not handicapped; and

(d) In selecting the least restrictive environment, consideration is given to any potential harmful effect on the child or on the quality of services which he or she needs.

(20 U.S.C. 1412(5) (B).)

Comment. Section 121a.552 includes some of the main factors which must be considered in determining the extent to which a handicapped child can be educated with children who are not handicapped. The overriding rule in this section is that placement decisions must be made on an individual basis. The section also requires each agency to have various alternative placements available in order to insure that each handicapped child receives an education which is appropriate to his or her individual needs.

The analysis of the regulations for Section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84—Appendix, Paragraph 24) includes several points regarding educational placements of handicapped children which are pertinent to this section:

1. With respect to determining proper placements, the analysis states: "* * * it should be stressed that, where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore regular placement would not be appropriate to his or her needs * * *."

2. With respect to placing a handicapped child in an alternate setting, the analysis states that among the factors to be considered in placing a child is the need to place the child as close to home as possible. Recipients are required to take this factor into account in making placement decisions. The parent's right to challenge the placement of their child extends not only to placement in special classes or separate schools, but also to placement in a distant school, particularly in a residential program. An equally appropriate education program may exist closer to home; and this issue may be raised by the parent under the due process provisions of this subpart.

§ 121a.553 Nonacademic settings.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in § 121a.306 of Subpart C, each public agency shall insure that each handicapped child participates with nonhandicapped children in those services and activities to the maximum extent appropriate to the needs of that child.

(20 U.S.C. 1412(5) (B).)

Comment. Section 121a.553 is taken from a new requirement in the final regulations for Section 504 of the Rehabilitation Act of 1973. With respect to this requirement, the analysis of the Section 504 Regulations includes the following statement: "[A new paragraph] specifies that handicapped children must also be provided nonacademic services in as integrated a setting as possible. This requirement is especially important for children whose educational needs necessitate their being solely with other handicapped children during most of each day. To the maximum extent appropriate, children in residential settings are also to be provided opportunities for participation with other children." (45 CFR Part 84—Appendix, Paragraph 24.)

§ 121a.554 Children in public or private institutions.

Each State educational agency shall make arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures) as may be necessary to insure that § 121a.550 is effectively implemented.

(20 U.S.C. 1412(5) (B).)

Comment. Under section 612(5)(B) of the statute, the requirement to educate handicapped children with nonhandicapped children also applies to children in public and private institutions or other care facilities. Each State educational agency must insure that each applicable agency and institution in the State implements this requirement. Regardless of other reasons for institutional placement, no child in an institution who is capable of education in a regular public school setting may be denied access to an education in that setting.

§ 121a.555 Technical assistance and training activities.

Each State educational agency shall carry out activities to insure that teachers and administrators in all public agencies:

(a) Are fully informed about their responsibilities for implementing § 121a.550, and

(b) Are provided with technical assistance and training necessary to assist them in this effort.

(20 U.S.C. 1412(5) (B).)

§ 121a.556 Monitoring activities.

(a) The State educational agency shall carry out activities to insure that § 121a.550 is implemented by each public agency.

(b) If there is evidence that a public agency makes placements that are inconsistent with § 121a.550 of this subpart, the State educational agency:

(1) Shall review the public agency's justification for its actions, and

(2) Shall assist in planning and implementing any necessary corrective action.

(20 U.S.C. 1412(5) (B).)

CONFIDENTIALITY OF INFORMATION

§ 121a.560 Definitions.

As used in this subpart:

"Destruction" means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

"Education records" means the type of records covered under the definition of "education records" in Part 99 of this title (the regulations implementing the Family Educational Rights and Privacy Act of 1974).

"Participating agency" means any agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained, under this part.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.561 Notice to parents.

(a) The State educational agency shall give notice which is adequate to fully inform parents about the requirements under § 121a.128 of Subpart B, including:

(1) A description of the extent to which the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under section 438 of the General Education Provisions Act and Part 99 of this title (the Family Educational Rights and Privacy Act of 1974, and implementing regulations).

(b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.562 Access rights.

(a) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

(b) The right to inspect and review education records under this section includes:

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

(c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.563 Record of access.

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.564 Records on more than one child.

If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.565 List of types and locations of information.

Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.566 Fees.

(a) A participating education agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.567 Amendment of records at parent's request.

(a) A parent who believes that information in education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child, may request the participating agency which maintains the information to amend the information.

(b) The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the agency decides to refuse to amend the information in accordance with the request it shall inform the parent of the refusal, and advise the parent of the right to a hearing under § 121a.568.

(20 U.S.C. 1412(2) (D); 1417(c).)

§ 121a.568 Opportunity for a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to insure that it is not inaccurate, misleading, party has an opportunity to submit written comments regarding the decision to the Commissioner within a specified reasonable time.

(c) The initial decision of the Hearing Panel is the final decision of the Commissioner unless, within 25 days after the end of the time for receipt of written comments, the Commissioner informs the Panel in writing that the decision is being reviewed.

(d) Review by the Commissioner is based on the decision, the written record, if any, of the Hearing Panel's proceedings, and written comments or oral arguments by the parties.

(e) No decision under this section becomes final until it is served on the State educational agency or its attorney.

(20 U.S.C. 1232c(c); 1413(a)(9)(b); 1413(c); 1416.)

§ 121a.589 Waiver of requirement regarding supplementing and supplanting with Part B funds.

(a) Under sections 613(a)(9)(B) and 614(a)(2)(B)(ii) of the Act, State and local Educational agencies must insure that Federal funds provided under Part B of the Act are used to supplement the level of State and local funds expended for the education of handicapped children, and in no case to supplant those State and local funds. Beginning with funds appropriated for fiscal year 1979 and for each following fiscal year, the nonsupplanting requirement only applies to funds allocated to local educational agencies. (See § 121a.-[illegible]72.)

(b) If the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Commissioner may waive in part the requirement under sections 613(a)(9)(B) and 614(a)(2)(B)(ii) of the Act if the Commissioner concurs with the evidence provided by the State.

(c) If a State wishes to request a waiver, it must inform the Commissioner in writing. The Commissioner then provides the State with a finance and membership report form which provides the basis for the request.

(d) In its request for a waiver, the State shall include the results of a special study made by the State to obtain evidence of the availability of a free appropriate public education to all handicapped children. The special study must include statements by a representative sample of organizations which deal with handicapped children, and parents and teachers of handicapped children, relating to the following areas:

(1) The adequacy and comprehensiveness of the State's system for locating, identifying, and evaluating handicapped children, and

(2) The cost to parents, if any, for education for children enrolled in public and private day schools, and in public and private residential schools and institutions, and

(3) The adequacy of the State's due process procedures.

(e) In its request for a waiver, the State shall include finance data relating to the availability of a free appropriate public education for all handicapped children, including:

(1) The total current expenditures for regular education programs and special education programs by function and by source of funds (State, local, and Federal) for the previous school year, and

(2) The full-time equivalent membership of students enrolled in regular programs and in special programs in the previous school year.

(f) The Commissioner considers the information which the State provides under paragraph (d) and (e) of this section, along with any additional information he may request, or obtain through on-site reviews of the State's education programs and records, to determine if all children have available to them a free appropriate public education, and if so, the extent of the waiver.

(g) The State may request a hearing under §§ 121a.580–121a.583 with regard to any final action by the Commissioner under this section.

(20 U.S.C. 1411(c)(3); 1413(a)(9)(B).)

§ 121a.590 Withholding payments.

(a) The Commissioner may make the following findings only after reasonable notice and an opportunity for a hearing under §§ 121a.580–121a.583 to the State educational agency involved (and to any local educational agency affected by any failure described in paragraph (a)(2) of this section):

(1) That there has been a failure to comply substantially with the provisions of section 612 and 613 of the Act, or

(2) That in the administration of the annual program plan there is a failure to comply with any provision of this part or with any requirement in the application of a local educational agency approved by the State educational agency under the annual program plan.

(b) After making either of the findings in paragraph (a) of this section, the Commissioner:

(1) Shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

(2) May, after notifying the State educational agency, withhold further payments to the State under the Federal programs referred to in § 121a.139 of Subpart B which are within his jurisdiction, to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children.

(c) If the Commissioner withholds payments under paragraph (b) of this section he may determine:

(1) That withholding is limited to programs or projects under the annual program plan, or portions of it, affected by the failure, or

(2) That the State educational agency must not make further payments under Part B of the Act to specified local educational agencies affected by the failure.

(20 U.S.C. 1416(a).)

§ 121a.591 Reinstating payments.

Until the Commissioner is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in § 121a.590(a):

(a) No further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) of the Act which are within his jurisdiction to the extent that funds under those programs are available for the provision of assistance for the education of handicapped children, or

(b) Payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure.

(20 U.S.C. 1416(a).)

§ 121a.592 Public notice by State and local educational agencies.

Any State educational agency and local educational agency which receives a notice under § 121a.590(a) shall by means of a public notice, take any necessary measures to inform the public within the agency's jurisdiction of the pendency of the action.

(20 U.S.C. 1416(a).)

§ 121a.593 Judicial review of Commissioner's final action on annual program plan.

If any State is dissatisfied with the Commissioner's final action with respect to its annual program plan submitted under Subpart B, the State may under section 616(b) of the Act, within sixty days after notice of the action, file a petition for review of that action with the United States Court of Appeals for the circuit in which the State is located.

(20 U.S.C. 1416(b).)

Subpart F—State Administration

STATE EDUCATIONAL AGENCY RESPONSIBILITIES: GENERAL

§ 121a.600 Responsibility for all educational programs.

(a) The State educational agency is responsible for insuring:

(1) That the requirements of this part are carried out; and

(2) That each educational program for handicapped children administered within the State, including each program administered by any other public agency:

(i) Is under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency, and

(ii) Meets education standards of the State educational agency (including the requirements of this part).

(b) The State must comply with paragraph (a) of this section through State statute, State regulation, signed agreement between respective agency officials, or other documents.

(20 U.S.C. 1412(6).)

Comment. The requirement in § 121a.600 (a) is taken essentially verbatim from sec-

or otherwise in violation of the privacy or other rights of the child.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.569 Result of hearing.

(a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the records of the child under this section must:

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.570 Hearing procedures.

A hearing held under § 121a.568 of this subpart must be conducted according to the procedures under § 99.22 of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.571 Consent.

(a) Parental consent must be obtained before personally identifiable information is:

(1) Disclosed to anyone other than officials of participating agencies collecting or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement under this part.

(b) An educational agency or institution subject to Part 99 of this title may not release information from education records to participating agencies without parental consent unless authorized to do so under Part 99 of this title.

(c) The State educational agency shall include policies and procedures in its annual program plan which are used in the event that a parent refuses to provide consent under this section.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.572 Safeguards.

(a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(b) One official at each participating agency shall assume responsibility for insuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 121a.129 of Subpart B and Part 99 of this title.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(20 U.S.C. 1412(2)(D): 1417(c).)

§ 121a.573 Destruction of information.

(a) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

(20 U.S.C. 1412(2)(D); 1417(c).)

Comment. Under section 121a.573, the personally identifiable information on a handicapped child may be retained permanently unless the parents request that it be destroyed. Destruction of records is the best protection against improper and unauthorized disclosure. However, the records may be needed for other purposes. In informing parents about their rights under this section, the agency should remind them that the records may be needed by the child or the parents for social security benefits or other purposes. If the parents request that the information be destroyed, the agency may retain the information in pargraph (b).

§ 121a.574 Children's rights.

The State educational agency shall include policies and procedures in its annual program plan regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

(20 U.S.C. 1412(2)(D); 1417(c).)

Comment. Note that under the regulations for the Family Educational Rights and Privacy Act (45 CFR 99.4(a)), the rights of parents regarding education records are transferred to the student at age 18.

§ 121a.575 Enforcement.

The State educational agency shall describe in its annual program plan the policies and procedures, including sanctions, which the State uses to insure that its policies and procedures are followed and that the requirements of the Act and the regulations in this part are met.

(20 U.S.C. 1412(2)(D); 1417(c).)

§ 121a.576 Office of Education.

If the Office of Education or its authorized representatives collect any personally identifiable information regarding handicapped children which is not subject to 5 U.S.C. 552a (The Privacy Act of 1974), the Commissioner shall apply the requirements of 5 U.S.C. section 552a(b)(1)-(2), (4)-(11); (c); (d); (e)(1), (2), (3)(A), (B), and (D), (5)-(10); (h); (m); and (n), and the regulations implementing those provisions in Part 5b of this title.

(20 U.S.C. 1412(2)(D); 1417(c).)

OFFICE OF EDUCATION PROCEDURES

§ 121a.580 Opportunity for a hearing.

The Commissioner gives a State educational agency reasonable notice and an opportunity for a hearing before taking any of the following actions:

(a) Disapproval of a State's annual program plan under § 121a.113 of Subpart B.

(b) Withholding payments from a State under § 121a.590 or under section 434(c) of the General Education Provisions Act.

(c) Waiving the requirement under § 121a.589 of this subpart regarding supplementing and supplanting with funds provided under Part B of the Act.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.581 Hearing panel.

The Commissioner appoints a Hearing Panel consisting of not less than three persons to conduct any hearing under § 121a.580 of this subpart.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.582 Hearing procedures.

(a)(1) If the Hearing Panel determines that oral testimony would not materially assist the resolution of disputed facts, the Panel shall give each party an opportunity for presenting [illegible] case:

(i) In whole or in part in writing, or

(ii) In an informal conference before the Hearing Panel.

(2) The Hearing Panel shall give each party:

(i) Notice of the issues to be considered (if this notice has not already been given); and

(ii) An opportunity to be represented by counsel.

(b) If the Hearing Panel determines that oral testimony would materially assist the resolution of disputed facts, the Panel shall give each party, in addition to the requirements under paragraph (a)(2) of this section:

(1) An opportunity to obtain a record of the proceedings;

(2) An opportunity to present witnesses on the party's behalf; and

(3) An opportunity to cross-examine witnesses either orally or with written questions.

(20 U.S.C. 1232c(c); 1413(a)(9)(B); 1413(c); 1416.)

§ 121a.583 Initial decision; final decision.

(a) The Hearing Panel shall prepare an initial written decision which includes findings of fact and the conclusions based on those facts.

(b) The Hearing Panel shall mail a copy of the initial decision to each party (or to the party's counsel) and to [illegible] Commissioner, with a notice that [illegible] tion 612(6) of the statute and reflects the desire of the Congress for a central point of responsibility and accountability in the education of handicapped children within each State. With respect to State educational agency responsibility, the Senate Report on P.L. 94-142 includes the following statements:

> This provision is included specifically to assure a single line of responsibility with regard to the education of handicapped children, and to assure that in the implementation of all provisions of this Act and in carrying out the right to education for handicapped children, the State educational agency shall be the responsible agency * * *.
>
> Without this requirement, there is an abdication of responsibility for the education of handicapped children. Presently, in many States, responsibility is divided, depending upon the age of the handicapped child, sources of funding, and type of services delivered. While the Committee understands that different agencies may, in fact, deliver services, the responsibility must remain in a central agency overseeing the education of handicapped children, so that failure to deliver services or the violation of the rights of handicapped children is squarely the responsibility of one agency. (Senate Report No. 94-168, p. 24 (1975))

In meeting the requirements of this section, there are a number of acceptable options which may be adopted, including the following:

(1) Written agreements are developed between respective State agencies concerning State educational agency standards and monitoring. These agreements are binding on the local or regional counterparts of each State agency.

(2) The Governor's Office issues an administrative directive establishing the State educational agency responsibility.

(3) State law, regulation, or policy designates the State educational agency as responsible for establishing standards for all educational programs for the handicapped, and includes responsibility for monitoring.

(4) State law mandates that the State educational agency is responsible for all educational programs.

§ 121a.601 Monitoring and evaluation activities.

Each State educational agency shall:

(a) Undertake monitoring and evaluation activities to insure compliance of all public agencies within the State with the requirements of Subparts C, D, and E.

(b) Develop procedures (including specific timelines) for monitoring and evaluating public agencies involved in that education of handicapped children. These procedures must include:

(1) Collection of data and reports;

(2) Conduct of on-site visits;

(3) Audit of Federal fund utilization; and

(4) Comparison of a sampling of individualized education programs with the programs actually provided.

(20 U.S.C. 1412(6); 1413(a) (11).)

Comment: In carrying out the requirements of paragraph (b) of this section, State educational agencies could include additional procedures, such as involving parents or representatives of parent organizations in on-site visits and other monitoring activities.

§ 121a.602 Adoption of complaint procedures.

(a) Each State educational agency shall adopt effective procedures for reviewing, investigating, and acting on any allegations of substance, which may be made by public agencies, or private individuals, or organizations, of actions taken by any public agency that are contrary to the requirements of this part.

(b) In carrying out the requirements in paragraph (a) of this section, the State educational agency shall:

(1) Designate specific individuals within the agency who are responsible for implementing the requirements;

(2) Provide for negotiations, technical assistance activities, and other remedial action to achieve compliance; and

(3) Provide for the use of sanctions, including the withholding of Part B funds in accordance with § 121a.194

(20 U.S.C. 1412(6).)

USE OF FUNDS

§ 121a.620 Federal funds for State administration.

A State may use five per cent of the total State allotment in any fiscal year under Part B of the Act, or $200,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613 of the Act. However, this amount cannot be greater than the amount which the State may use under § 121a.704 or § 121a.705, as the case may be.

(20 U.S.C. 1411 (b), (c).)

§ 121a.621 Allowable costs.

(a) The State educational agency may use funds under § 121a.620 of this Subpart for:

(1) Administration of the annual program plan and for planning at the State level, including planning, or assisting in the planning, of programs or projects for the education of handicapped children;

(2) Approval, supervision, monitoring, and evaluation of the effectiveness of local programs and projects for the education of handicapped children;

(3) Technical assistance to local educational agencies with respect to the requirements of this part;

(4) Leadership services for the program supervision and management of special education activities for handicapped children; and

(5) Other State leadership activities and consultative services.

(b) The State educational agency shall use the remainder of its funds under § 121a.620 in accordance with § 121a.370 of Subpart C.

(20 U.S.C. 1411 (b), (c).)

STATE ADVISORY PANEL

§ 121a.650 Establishment.

(a) Each State shall establish, in accordance with the provisions of this subpart, a State advisory panel on the education of handicapped children.

(b) The advisory panel must be appointed by the Governor or any other official authorized under State law to make those appointments.

(c) If a State has an existing advisory panel that can perform the functions in § 121a.652, the State may modify the existing panel so that it fulfills all of the requirements of this subpart, instead of establishing a new advisory panel.

(20 U.S.C. 1413(a) (12).)

§ 121a.651 Membership.

(a) The membership of the State advisory panel must be composed of persons involved in or concerned with the education of handicapped children. The membership must include at least one person representative of each of the following groups:

(1) Handicapped individuals.

(2) Teachers of handicapped children.

(3) Parents of handicapped children.

(4) State and local educational officials.

(5) Special education program administrators.

(b) The State may expand the advisory panel to include additional persons in the groups listed in paragraph (a) of this section and representatives of other groups not listed.

(20 U.S.C. 1413(a) (12).)

Comment. The membership of the State advisory panel, as listed in paragraphs (a) (1)-(5), is required in section 613(a) (12) of the Act. As indicated in paragraph (b), the composition of the panel and the number of members may be expanded at the discretion of the State. In adding to the membership, consideration could be given to having:

(1) An appropriate balance between professional groups and consumers (i.e., parents, advocates, and handicapped individuals);

(2) Broad representation within the consumer-advocate groups, to insure that the interests and points of view of various parents, advocates and handicapped individuals are appropriately represented;

(3) Broad representation within professional groups (e.g., (a) regular education personnel, (b) special educators, including teachers, teacher trainers, and administrators, who can properly represent various dimensions in the education of handicapped children, and (c) appropriate related services personnel); and

(4) Representatives from other State advisory panels (such as vocational education).

If a State elects to maintain a small advisory panel (e.g., 10-15 members), the panel itself could take steps to insure that it (1) consults with and receives inputs from various consumer and special interest professional groups, and (2) establishes committees for particular short-term purposes composed of representatives from those input groups.

§ 121a.652 Advisory panel functions.

The State advisory panel shall:

(a) Advise the State educational agency of unmet needs within the State in the education of handicapped children;

(b) Comment publicly on the State annual program plan and rules or regulations proposed for issuance by the

State regarding the education of handicapped children and the procedures for distribution of funds under this part; and

(c) Assist the State in developing and reporting such information and evaluations as may assist the Commissioner in the performance of his responsibilities under section 618.

(20 U.S.C. 1413(a)(12).)

§ 121a.653 Advisory panel procedures.

(a) The advisory panel shall meet as often as necessary to conduct its business.

(b) By July 1 of each year, the advisory panel shall submit an annual report of panel activities and suggestions to the State educational agency. This report must be made available to the public in a manner consistent with other public reporting requirements under this part.

(c) Official minutes must be kept on all panel meetings and shall be made available to the public on request.

(d) All advisory panel meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

(e) Interpreters and other necessary services must be provided at panel meetings for panel members or participants. The State may pay for these services from funds under § 121a.620.

(f) The advisory panel shall serve without compensation but the State must reimburse the panel for reasonable and necessary expenses for attending meetings and performing duties. The State may use funds under § 121a.620 for this purpose.

(20 U.S.C. 1413(a)(12).)

Subpart G—Allocation of Funds; Reports

ALLOCATIONS

§ 121a.700 Special definition of the term State.

For the purposes of § 121a.701, § 121a.702, and §§ 121a.704–121a.708, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1411(a)(2).)

§ 121a.701 State entitlement; formula

(a) The maximum amount of the grant to which a State is entitled under section 611 of the Act in any fiscal year is equal to the number of handicapped children aged three through 21 in the State who are receiving special education and related services, multiplied by the applicable percentage, under paragraph (b) of this section, of the average per pupil expenditure in public elementary and secondary schools in the United States.

(b) For the purposes of the formula in paragraph (a) of this section, the applicable percentage of the average per pupil expenditure in public elementary and secondary schools in the United States for each fiscal year is:

(1) 1978—5 percent,
(2) 1979—10 percent,
(3) 1980—20 percent,
(4) 1981—30 percent, and
(5) 1982, and for each fiscal year after 1982, 40 percent.

(20 U.S.C. 1411(a)(1).)

(c) For the purposes of this section, the average per pupil expenditure in public elementary and secondary schools in the United States, means the aggregate expenditures during the second fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which, for the purpose of this section, means the fifty States and the District of Columbia), plus any direct expenditures by the State for operation of those agencies (without regard to the source of funds from which either of those expenditures are made), divided by the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(20 U.S.C. 1411(a)(4).)

§ 121a.702 Limitations and exclusions.

(a) In determining the amount of a grant under § 121a.701 of this subpart, the Commissioner may not count:

(1) Handicapped children in a State to the extent that the number of those children is greater than 12 percent of the number of all children aged five through 17 in the State;

(2) Children with specific learning disabilities to the extent that the number of those children is greater than two percent of the number of all children aged five through 17 in the State; and

(3) Handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.

(b) For the purposes of paragraph (a) of this section, the number of children aged five through 17 in any State shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

(20 U.S.C. 1411(a)(5).)

§ 121a.703 Ratable reductions.

(a) *General.* If the sums appropriated for any fiscal year for making payments to States under section 611 of the Act are not sufficient to pay in full the total amounts to which all States are entitled to receive for that fiscal year, the maximum amount which all States are entitled to receive for that fiscal year shall be ratably reduced. In case additional funds become available for making payments for any fiscal year during which the preceding sentence is applicable, those reduced amounts shall be increased on the same basis they were reduced.

(20 U.S.C. 1411(g)(1).)

(b) *Reporting dates for local educational agencies and reallocations.*

(1) In any fiscal year in which the State entitlements have been ratably reduced, and in which additional funds have not been made available to pay in full the total of the amounts under paragraph (a) of this section, the State educational agency shall fix dates before which each local educational agency shall report to the State the amount of funds available to it under this part which it estimates it will expend.

(2) The amounts available under paragraph (a)(1) of this section, or any amount which would be available to any other local educational agency if it were to submit an application meeting the requirements of this part, which the State educational agency determines will not be used for the period of its availability, shall be available for allocation to those local educational agencies, in the manner provided in §121a.707, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

(20 U.S.C. 1411(g)(2).)

§ 121a.704 Hold harmless provision.

No State shall receive less than the amount it received under Part B of the Act for fiscal year 1977.

(20 U.S.C. 1411(a)(1).)

§ 121a.705 Within-State distribution: fiscal year 1978.

Of the funds received under § 121a.701 of this subpart by any State for fiscal year 1978:

(a) 50 percent may be used by the State in accordance with the provisions of § 121a.620 of Subpart F and § 121a.370 of Subpart C, and

(b) 50 percent shall be distributed to local educational agencies in the State in accordance with § 121a.707.

(20 U.S.C. 1411(b)(1).)

§ 121a.706 Within-State distribution: fiscal year 1979 and after.

Of the funds received under § 121a.701 by any State for fiscal year 1979, and for each fiscal year after fiscal year 1979:

(a) 25 percent may be used by the State in accordance with § 121a.620 of Subpart F and § 121a.370 of Subpart C, and

(b) 75 percent shall be distributed to the local educational agencies in the State in accordance with § 121a.707.

(20 U.S.C. 1411(c)(1).)

§ 121a.707 Local educational agency entitlements; formula.

From the total amount of funds available to all local educational agencies, each local educational agency is entitled to an amount which bears the same ratio to the total amount as the number of handicapped children aged three through 21 in that agency who are receiving special education and related services bears to the aggregate number of handicapped children aged three through 21 receiving special education and related services in all local educational agencies which apply to the State educational agency for funds under Part B of the Act.

(20 U.S.C. 1411(d).)

§ 121a.708 Reallocation of local educational agency funds.

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by the local agency with State and local funds otherwise available to the local agency, the State educational agency may reallocate funds (or portions of those funds which are not required to provide special education and related services) made available to the local agency under § 121a.707, to other local educational agencies within the State which are not adequately providing special education and related services to all handicapped children residing in the areas served by the other local educational agencies.

(20 U.S.C. 1414(e).)

§ 121a.709 Payments to Secretary of Interior.

(a) The Commissioner is authorized to make payments to the Secretary of the Interior according to the need for that assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior.

(b) The amount of those payments for any fiscal year shall not exceed one percent of the aggregate amounts available to all States for that fiscal year under Part B of the Act.

(20 U.S.C. 1411(f)(1).)

§ 121a.710 Entitlements to jurisdictions.

(a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) Each jurisdiction under paragraph (a) of this section is entitled to a grant for the purposes set forth in section 601 (c) of the Act. The amount to which those jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 percent of the aggregate of the amounts available to all States under this part for that fiscal year. Funds appropriated for those jurisdictions shall be allocated proportionately among them on the basis of the number of children aged three through twenty-one in each jurisdiction. However, no jurisdiction shall receive less than $150,000, and other allocations shall be ratably reduced if necessary to insure that each jurisdiction receives at least that amount.

(c) The amount expended for administration by each jurisdiction under this section shall not exceed 5 percent of the amount allotted to the jurisdiction for any fiscal year, or $35,000, whichever is greater.

(20 U.S.C. 1411(e).)

REPORTS

§ 121a.750 Annual report of children served—report requirement.

(a) The State educational agency shall report to the Commissioner no later than April 1 of each year the number of handicapped children aged three through 21 residing in the State who are receiving special education and related services.

(b) The State educational agency shall submit the report on forms provided by the Commissioner.

(20 U.S.C. 1411(a)(3).)

Comment. It is very important to understand that this report and the requirements that relate to it are solely for allocation purposes. The population of children the State may count for allocation purposes may differ from the population of children to whom the State must make available a free appropriate public education. For example, while section 611(a)(5) of the Act limits the number of children who may be counted for allocation purposes to 12 percent of the general school population aged five through seventeen, a State might find that 14 percent (or some other percentage) of its children are handicapped. In that case, the State must make free appropriate public education available to all of those handicapped children.

§ 121a.751 Annual report of children served—information required in the report.

(a) In its report, the State educational agency shall include a table which shows:

(1) The number of handicapped children receiving special education and related services on October 1 and on February 1 of that school year, and the average of the numbers for those two dates;

(2) The number of those handicapped children within each disability category, as defined in the definition of "handicapped children" in § 121a.5 of Subpart A; and

(3) The number of those handicapped children within each of the following age groups:

(i) Three through five;

(ii) Six through seventeen; and

(iii) Eighteen through twenty-one.

(b) A child must be counted as being in the age group corresponding to his or her age on the date of the count: October 1 or February 1, as the case may be.

(c) The State educational agency may not report a child under more than one disability category.

(d) If a handicapped child has more than one disability, the State educational agency shall report that child in accordance with the following procedure:

(1) A child who is both deaf and blind must be reported as "deaf-blind."

(2) A child who has more than one disability (other than a deaf-blind child) must be reported as "multihandicapped."

(20 U.S.C. 1411(a)(3); 1411(a)(5)(A)(ii); 1418(b).)

§ 121a.752 Annual report of children served—certification.

The State educational agency shall include in its report a certification signed by an authorized official of the agency that the information provided is an accurate and unduplicated count of handicapped children receiving special education and related services on the dates in question.

(20 U.S.C. 1411(a)(3); 1417(b).)

§ 121a.753 Annual report of children served—criteria for counting children.

(a) The State educational agency may include handicapped children in its report who are enrolled in a school or program which is operated or supported by a public agency, and which either:

(1) Provides them with both special education and related services; or

(2) Provides them only with special education if they do not need related services to assist them in benefitting from that special education.

(b) The State educational agency may not include handicapped children in its report who:

(1) Are not enrolled in a school or program operated or supported by a public agency;

(2) Are not provided special education that meets State standards;

(3) Are not provided with a related service that they need to assist them in benefitting from special education;

(4) Are counted by a State agency under section 121 of the Elementary and Secondary Education Act of 1965, as amended; or

(5) Are receiving special education funded solely by the Federal Government. However, the State may count children covered under § 121a. 186(b) of Subpart B.

(20 U.S.C. 1411(a)(3); 1417(b).)

Comment. 1. Under paragraph (a), the State may count handicapped children in a Head Start or other preschool program operated or supported by a public agency if those children are provided special education that meets State standards.

2. "Special education," by statutory definition, must be at no cost to parents. As of September 1, 1978, under the free appropriate public education requirement, both special education and related services must be at no cost to parents.

There may be some situations, however, where a child receives special education from a public source at no cost, but whose parents pay for the basic or regular education. This child may be counted. The Office of Education expects that there would only be limited situations where special education would be clearly separate from regular education—generally, where speech therapy is the only special education required by the child. For example, the child might be in a regular program in a parochial or other private school but receiving speech therapy in a program funded by the local educational agency. Allowing these children to be counted will provide incentives (in addition to complying with the legal requirement in section 613(a)(4)(A) of the Act regarding private schools) to public agencies to provide services to children in private schools, since funds are generated in part on the basis of the number of children provided special education and related services. Agencies should understand, however, that where a handicapped child is placed in or referred to a public or private school for educational purposes, special education includes the entire educational program provided to the child. In that case, parents may not be charged for any part of the child's education.

A State may not count Indian children on or near reservations and children on military facilities if it provides them no special education. If a State or local educational agency is responsible for serving these children, and does provide them special education and related services, they may be counted.

§ 121a.754 Annual report of children served—other responsibilities of the State educational agency.

In addition to meeting the other requirements in this subpart, the State educational agency shall:

(a) Establish procedures to be used by local educational agencies and other educational institutions in counting the number of handicapped children receiving special education and related services;

(b) Set dates by which those agencies and institutions must report to the State educational agency to insure that the State complies with § 121a.750(a);

(c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

(d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under this subpart; and

(e) Insure that documentation is maintained which enables the State and the Commissioner to audit the accuracy of the count.

(20 U.S.C. 1411(a)(3); 1417(b).)

Comment. States should note that the data required in the annual report of children served are not to be transmitted to the Commissioner in personally identifiable form. States are encouraged to collect these data in non-personally identifiable form.

APPENDIX A—ANALYSIS OF FINAL REGULATION (45 CFR PART 121a) UNDER PART B OF THE EDUCATION OF THE HANDICAPPED ACT

These regulations set forth requirements to be followed by States and localities if they are to receive funds under Part B of the Education of the Handicapped Act. The regulations cover matters such as the identification, location, and evaluation of handicapped children; the provision of free appropriate public education; the establishment of a full educational opportunity goal; the count of handicapped children for allocation purposes; priorities in the use of Part B funds; the proper use of Part B funds; the development of an individualized education program; the creation of a comprehensive personnel development system; procedural safeguards (e.g. right to notice and conduct of hearings); methods to guarantee public participation; and details about State annual program plans and local educational agency applications.

RELATIONSHIP BETWEEN REGULATIONS UNDER PART B AND REGULATIONS UNDER SECTION 504

The regulations under section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84; published at 42 FR 22675; May 4, 1977) deal with nondiscrimination on the basis of handicap and basically require that recipients of Federal funds provide equal opportunities to handicapped persons (for example, that they meet the needs of handicapped persons to the same extent that the needs of nonhandicapped persons are met). Subpart D of the section 504 regulations ("Preschool, Elementary, and Secondary Education") contains requirements very similar to those in Part B of the Education of the Handicapped Act.

Basically, both require that handicapped persons be provided a free appropriate public education; that handicapped students be educated with nonhandicapped students to the extent appropriate; that educational agencies identify and locate all unserved handicapped children; that evaluation procedures be adopted to insure appropriate classification and educational services; and that procedural safeguards be established.

In several respects, however, the section 504 regulations are broader in coverage than Part B. For example, the definition of "handicapped person" and "qualified handicapped person" under section 504 covers a broader population than the definition of "handicapped children" under Part B. Under the Part B definition, a handicapped child is a child who has one of the impairments listed in the Act, who because of that impairment requires special education and related services. Under section 504, a handicapped person is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of that type of impairment, or is regarded as having that impairment (§ 84.3(j)).

The regulations for section 504 also deal with a number of subjects not covered by the Part B regulations (for example, barrier-free facilities and program accessibility; employment; postsecondary education and health, welfare and social services). On the other side, Part B contains a substantial number of administrative requirements not included under section 504 (for example, annual program plans and local applications) and requires more detailed procedures and policies in many instances (such as due process procedures).

In several instances, the section 504 regulations specifically reference where a requirement may be met by complying with a requirement under Part B. For example, § 84.33(b)(2), dealing with appropriate education, cites implementation of an individualized education program as one means of meeting the requirement. Section 84.33(d) has a September 1, 1978 outside date for providing an appropriate education to qualified handicapped persons (conforming to the timelines in Part B). Section 84.35(d) indicates that a reevaluation procedure consistent with the Part B requirements is one means of meeting the reevaluation requirements under section 504. Section 84.36, dealing with due process requirements, indicates that compliance with the procedural safeguards in Part B is one means of meeting those requirements.

It should be noted that the term "free appropriate public education" (FAPE) has different meanings under Part B and section 504. For example, under Part B, "FAPE" is a statutory term which requires special education and related services to be provided in accordance with an individualized education program. However, under section 504, each recipient must provide an education which includes "the provision of regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met * * *"

There is also a major difference between Part B and the section 504 regulations concerning the matter of exclusion of handicapped children from school. As of the effective date of the section 504 regulations (June 3, 1977), exclusion of handicapped children from school constitutes a violation of those requirements. However, under Part B, States are not required to serve all handicapped children aged 3–18 until September 1, 1978. As stated in Appendix A of the section 504 regulations:

> The EHA requires a free appropriate education to be provided to handicapped children "no later than September 1, 1978," but section 504 contains no authority for delaying enforcement. To resolve this problem, a new paragraph (d) has been added to § 84.33. Section 84.33(d) requires recipients to achieve full compliance with the free appropriate public education requirements of § 84.33 as expeditiously as possible, but in no event later than September 1, 1978. The provision also makes clear that, as of the effective date of this regulation, no recipient may exclude a qualified handicapped child from its educational program. This provision against exclusion is consistent with the order of providing services set forth in section 612(3) of the EHA, which places the highest priority on providing services to handicapped children who are not receiving an education.

PART 121a—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

SUBPART A—GENERAL

Subpart A sets forth the purposes and applicability of these regulations and includes definitions of statutory terms (e.g. free appropriate public education, special education, and related services) and other definitions related to those terms.

The following comments were received regarding Subpart A.

APPLICABILITY OF REGULATIONS TO STATE, LOCAL AND PRIVATE AGENCIES (§ 121a.2)

Comment: A commenter felt that the statement regarding the applicability of the regulations was not clear, and should be revised to indicate that the requirements apply to any public agency serving handicapped children, even if the agency does not receive Part B funds.

Response: A definition of "public agency" has been added to the regulations. The definition includes all political subdivisions in the State that are responsible for educating handicapped children. Throughout the regulation, the term "public agency" has been used to make it clear where the requirements do not apply only to State and local educational agencies. In addition, an explanatory comment was added after section 121a.2 to make it clear that the requirements under Part B are binding on each public agency in the State that has direct or delegated authority for the education of handicapped children, regardless of whether that agency receives Part B funds.

DEFINITIONS (§§ 121a.4–121a.15)

Comment: Hundreds of comments were received regarding definitions in the proposed rules. Commenters requested that new definitions be added, or sought changes in existing definitions, especially definitions of various disability categories and the various types of related services. In many instances, revisions were sought to conform to the most recent definitions adopted or used by professional associations.

Response: Definitions of terms used in the regulations are taken from various statutes, Congressional reports, or materials provided by professional associations and other groups. Where appropriate, the Office of Education has attempted to incorporate changes recommended by commenters, and has made other changes to clarify the definitions. In addition, the following new terms were added:

Definitions of "deaf-blind" and "multihandicapped" were added because these are recognized categories of handicapped children in most States.

A definition of "qualified" was added in order to be able to use a consistent term in referring to the qualifications of the various personnel.

The definition of "handicapped children" has been modified only by making certain clarifying changes. Although some commenters requested additional changes in the definitions of the various disability categories, it is felt that the definitions in this regulation must closely conform to current usage in the States and professions.

The related services definition was expanded to include "school health services." In addition, changes were made in the definitions of the individual terms included under "related services" (e.g., psychological services and recreation) to conform to recommendations of professional associations.

SUBPART B—STATE ANNUAL PROGRAM PLANS AND LOCAL APPLICATIONS

Subpart B includes the requirements relating to State annual program plans, local educational agency applications, participation by the Bureau of Indian Affairs, and public participation.

Two new sections (sections 121a.150 and 121a.239) have been added to require assurances from the State educational agencies and local educational agencies that the program under Part B will be operated in compliance with the section 504 regulations, including the requirements under section 606 of the Education of the Handicapped Act regarding employment of qualified handicapped individuals in programs assisted under the Act. (The Office for Civil Rights has been delegated authority for enforcing section 606.)

A substantial number of commenters were concerned with the following major issues in this subpart: (1) the amount of data required of State and local educational agencies; (2) the excess costs, nonsupplanting and comparability requirements; and (3) the public participation requirements. In addition, as with other subparts, many commenters objected to statutory requirements and sought interpretations of the statute and regulations.

Annual Program Plans

CONDITION OF ASSISTANCE (§ 121a.110)

Section 434(b) of the General Education Provisions Act (GEPA), as amended by Pub. L. 93–380, requires each State to submit (1) a general application containing five assurances, and (2) an annual program plan for each Office of Education program under which funds are provided to local educational agencies through, or under the supervision of, the State educational agency. Under Section 434(b), and the implementing regulations (45 CFR 100b, Subpart B), the general application and an annual program plan take the place of a State plan for Part B (45 CFR 100b.19).

The five assurances required under section 434(b) of the GEPA cover proper administration, fiscal control and accounting, reports, supplanting, and submission of the annual program plan. Where Part B contains plan requirements covering the same subject matters, submission of those plan requirements is satisfied by the State's submission of the general application. They do not have to be submitted as part of the annual plan. The Part B plan provisions which do not have to be submitted in the annual program plan are referenced in 45 CFR § 100b.17(c)(2)(iv). Note that a substantive section on the nonsupplanting requirement for local educational agencies is set out in § 121a.230.

Under 45 CFR 100b.18(c), material may be incorporated by reference in an annual program plan if the material is in a document previously approved by the Commissioner and on file in the Office of Education. This should save some paperwork, particularly in the years after the first annual program plan (for school year 1977–1978) is submitted under these regulations.

The provisions to be included in the annual program plan for Part B are set forth in §§ 121a.120–121a.151 of these regulations (which include the conditions of eligibility and the State plan requirements under sections 612 and 613 of the Act and section 434(b)(1)(B)(ii) of the GEPA (which requires each annual program plan to "set forth a statement describing the purposes for which Federal funds will be expended during the fiscal year for which the annual program plan is submitted")).

APPROVAL; DISAPPROVAL (§ 121a.113)

The following is clarification about the submission of draft annual program plans for review by the Office of Education and how this would affect the issuance of grant award documents:

A State educational agency may elect to send a copy of its proposed annual program plan to the Commissioner for technical assistance purposes at the same time that the plan is being made available for public comment. However, funds cannot be obligated by a State before the date on which its official adopted plan is received in substantially approvable form by the Federal Government. (See 45 CFR 100b.35.)

EXAMPLE: A State educational agency's proposed plan for a particular school year is received by the Bureau of Education for the Handicapped on June 1. Its official plan is received on August 1. When BEH approves the plan (e.g. September 1), the State educational agency will receive a grant award document which will show August 1, as the earliest date of obligation under that plan.

EFFECTIVE PERIOD OF ANNUAL PROGRAM PLAN (§ 121a.114)

The Office of Education is proposing to use the period July 1–June 30 for State annual program plans in those programs where appropriations become available for obligation by the Federal Government each July 1 (the so-called "advance funded" programs). The purpose of this is to meet the statutory requirement for an annual program plan covering a 12-month period and at the same time to conform as closely as possible to the regular school year. However, even if the proposed procedure is adopted, the obligational period of State and local agencies for funds from any fiscal year would not be changed. If a State submits its annual program plan and receives its grant on the earliest possible date (July 1), the funds are available for obligation at the State and local level for 27 months, subject to submission or extension of the annual program plan for the following year. (This period includes the 12-month carryover provision under the Tydings Amendment. See 45 CFR 100b.55 (Obligation by recipients).) For example, if a State received its grant for fiscal year 1978 on July 1, 1977, the funds would be available for obligation at the State and local level from July 1, 1977 through September 30, 1979. The rules which govern when an annual program plan becomes effective, and State and local authority to obligate the Federal funds are located in 45 CFR Part 100b, Subpart B.

PUBLIC PARTICIPATION (§ 121a.120)

Comment: Commenters wanted this section to be expanded to require the States to describe in detail a number of additional specific steps to be taken in complying with the public participation requirements of the Act. For example, they wanted States to develop a roster of interested persons to whom plans and other documents would routinely be sent. The commenters felt that these steps would be necessary to insure full public participation.

Response: Requirements have been added (in §§ 121a.280 et seq.) to spell out in more detail the State's duties regarding public participation in development of the annual program plan (for example, indicating in the notice of public hearings of the plan the timetable for developing the final plan and submitting it to the Commissioner). A requirement has also been added to specify that the plan must be available for comment at least 30 days following the date notice is given.

Another revised section indicates that the public participation requirements for local educational agencies are to be comparable to those required of the State, except that public hearings are not required (§ 121a.234).

FULL EDUCATIONAL OPPORTUNITY GOAL REQUIREMENTS (§§ 121a.124–121a.128)

Comment: Commenters disagreed about the amount of data which should be required under this (and other) sections. Some commenters sought to have the regulations require a substantial amount of additional data (about the population of handicapped children and their placements) on the grounds that it is needed for effective monitoring. Others sought to have the amount of data to be reported substantially reduced as unnecessary and fulfilling no useful purpose.

Response: The final regulations eliminate the data requirements in proposed section 121a.24(a) for school year 1977–1978. Since the funds for FY 1978 became available for obligation by the Federal government on July 1, 1977, the States began submitting annual program plans for school year 1977–1978 before these regulations were published. Therefore, it would be inappropriate to impose a retroactive data requirement. No substantive change has been made in the data requirement for school years 1978–1979 and thereafter. The Office of Education believes that the remaining amount of data sought is necessary and adequate to provide information on what and how children are being served. Additional information may be sought on a case by case basis from each State where necessary to monitor compliance with Part B. In addition, requirements have been added to Subpart F to increase each State's monitoring and enforcement obligations.

Comment: Commenters requested that the data requirements regarding personnel needed to meet the full educational opportunity goal include various other professional groups, such as physical therapists, or use terms currently accepted by the professions, such as "therapeutic recreation specialists" rather than "recreation therapists."

Response: These changes have been made to cover the various personnel who provide special education or related services and to use terms currently recognized by the appropriate professional associations.

Local Educational Agency Applications

PARENT INVOLVEMENT (§ 121a.226)

Comment: Commenters wanted the regulations to require the establishment of a parent advisory committee in each school district.

Response: No change has been made. Extensive public and parental participation is already required under sections 121a.226 and 121a.234.

EXCESS COST REQUIREMENTS (§§ 121a.182–121a.186)

Comment: A substantial number of commenters requested clarification and explanation of the excess cost requirement.

Response: The section on excess costs has been broken out into five sections for easier reading. Section 121a.184 specifies that a local educational agency must spend a certain minimum amount for the education of handicapped children before Part B funds may be used. A detailed example of determining the minimum amount follows revised section 121a.184.

NONSUPPLANTING AND COMPARABLE SERVICES (§§ 121a.230–121a.231)

Comment: A substantial number of commenters requested clarification of these requirements. Some commenters proposed detailed procedures and urged that the regulations require the reporting of a substantial amount of data to monitor compliance with these requirements. Some commenters felt the comparability requirement should be met by comparing expenses for regular and special education.

Response: These sections have been substantially revised to attempt to explain these requirements. Detailed procedures and reporting requirements are not adopted at this time because local educational agencies are otherwise required to maintain auditable records to document their compliance with these and other requirements.

Regarding nonsupplanting, the regulation provides that the requirement applies to total aggregate funds and particular costs. A local educational agency meets the requirement if (1) the total amount or average per capita amount of State and local school funds budgeted by the local educational agency for expenditures in the current fiscal year for the education of handicapped children is at least equal to the total amount or average per capita amount of State and local school funds actually expended for their education in the most recent preceding fiscal year for which information is available. Allowances may be made for decreases in enrollment of handicapped children and unusually large amounts of funds expended for long-term purposes (construction); and (2) Part B funds are not used to displace State or local funds for any particular cost.

The statutory requirement for comparability is implemented by prohibiting a local educational agency from using funds under Part B to provide services to handicapped children, unless the agency uses State and local funds to provide services to those children which, taken as a whole, are at least comparable to services provided to other handicapped children in that local educational agency. This should insure that handicapped children who receive services with Part B funds are treated equally with handicapped children who do not receive services with Part B funds. It would be too difficult to make an objective comparison between special and regular education. The concern of the commenters who asked for this comparison should be met by the excess cost requirement, which provides that a local educational agency must spend a minimum amount, on the average, for each of its handicapped children.

Comment: Commenters requested that the regulations make it clear that the local applications must meet the requirements imposed on the State in Subpart B.

Response: A section has been added to make it clear that each local application must include additional procedures and other information which the State educational agency may require in order to meet the State annual program plan requirements in Subpart B. The requirement for local educational agencies to be consistent with the annual program plan is set forth in section 121a.236.

APPLICATION FROM SECRETARY OF INTERIOR (§§ 121a.260–121a.261)

These sections have been rewritten to clarify that the annual application by the Secretary of the Interior for schools operated for Indian children must meet the applicable requirements of section 614(a), include other material as agreed to by the Commissioner and the Secretary of the Interior, and meet monitoring and public participation requirements.

PUBLIC PARTICIPATION

See the comments on Section 121a.120.

Subpart C—Services

Subpart C contains regulations governing the major service components required under Part B of the Act. These include free appropriate public education, the full educational opportunity goal, priorities in the use of Part B funds, individualized education programs, direct services by the State educational agency, and the State comprehensive system of personnel development.

Free Appropriate Public Education

FREE APPROPRIATE PUBLIC EDUCATION REQUIREMENTS (§§ 121a.300–121a.303)

Comment: Commenters disagreed with the interpretation of "State law or practice" in the proposed regulations. Some commenters felt the exception to the requirement to make free appropriate public education (FAPE) available to children in the age ranges three through five and 18 through 21 applies only if State law (or a court order) specifically prohibits services, or only if the State's practice is to provide services to less than a majority of the State's handicapped children. Others felt the requirement does not apply to the lower and upper age ranges unless the State is in fact serving all nonhandicapped children in those age ranges.

Response: The requirement has been redrafted to clarify the use of the exception and to insure at a minimum that handicapped children in any of these age ranges are served to the extent nonhandicapped children are served (to be consistent with nondiscrimination requirements under section 504).

Section 121a.300 ("Timeliness for free appropriate public education") breaks "practice" down by individual public agency, disability category, and age group. This revision is designed to maximize the number of handicapped children aged 3–5 and 18–21 who receive services. It should reduce the reluctance of agencies wishing to serve children in those age groups, because services to a *few* handicapped children will not require services to all handicapped children in all of the disabilities.

Section 121a.300 also includes an amendment designed to insure that each time a public agency elects to serve a handicapped child, the child receives the full range of rights and services, whether or not FAPE is mandated for that age range.

FREE APPROPRIATE PUBLIC EDUCATION METHODS AND PAYMENTS (§ 121a.301–121a.303)

Comment: Commenters disagreed on which agencies or parties should bear the costs of educating a handicapped child, especially room and board costs. Commenters sought clarification of when the costs must be borne by the State or local educational agency.

Response: The proposed regulation on methods and costs for FAPE (proposed § 121a.201) has been redrafted and expanded as follows:

(1) A new paragraph has been added to section 121a.301, which states: "Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a handicapped child."

(2) Section 121a.302 states that if placement in a public or private residential program is necessary to provide FAPE to a handicapped child, the program (including non-medical care and room and board) must be at no cost to the child's parents.

Both of these changes have been made to conform to the regulations implementing section 504.

Other Changes: A new section 121a.303 has been added regarding the proper functioning of hearing aids. This section is based on a special study conducted by the Office of Education ("The Condition of Hearing Aids as Worn by Children in Public Schools," GPO publication date Summer, 1977).

FULL EDUCATIONAL OPPORTUNITY GOAL (§§ 121a.304–121a.306)

The statutory terms "free appropriate public education" and "full educational opportunity goal" are distinguished in this regulation as follows:

"Free appropriate public education" (FAPE) must (1) be made available to all handicapped children within the mandated time lines and age ranges set forth in the Act, and (2) include special education and related services which are provided in accordance with an individualized education program.

"Full educational opportunity goal" is broader in scope than "FAPE." It is an all-encompassing term, which (1) covers all handicapped children aged birth through twenty-one, (2) includes a basic planning dimension (including making projections of the estimated numbers of handicapped children), (3) permits each agency to establish its own timetable for meeting the goal, and (4) calls for the provision of additional facilities, personnel, and services to further enrich a handicapped child's educational opportunity beyond that mandated under the "FAPE" requirement. The term "goal" means an end to be sought. However, while an agency may never achieve its goal in the absolute sense, it must be committed to implementing this provision, and must be in compliance with the policies and procedures in the Annual Program Plan under this provision. Further, the agency is not relieved from its obligations under the "FAPE" requirement.

The proposed rule on full educational opportunity goal has been revised as follows: Proposed paragraph (a) (Program options) is now § 121a.305 and proposed paragraph (b) (Non-academic services) is now § 121a.306. A new § 121a.304 has been added which (1) requires each State educational agency to insure that each public agency establishes and implements a goal of providing full educational opportunity to all handicapped children, and (2) authorizes State and local educational agencies to use Part B funds to provide the facilities, personnel and services necessary to meet the goal.

A comment has been added following section 121a.304 which points to Congressional interest in having artistic and cultural activities included in programs supported under this part, subject to the priorities.

Comment: Many commenters asked that additional areas be added to the program options requirement (e.g., leisure education, cultural and performing arts, and occupational education). Other commenters requested that the term "consumer and homemaking education" be substituted for "home economics" in order to be consistent with the vocational education amendments of 1976 (Pub. L. 94–482).

Response: No substantive change was made in this requirement. The program options included are examples and the list is not exhaustive. Under the regulation implementing section 504, any program provided to nonhandicapped students must also be made available to handicapped pupils. The language conforming to the vocational education amendments was added.

Comment: Commenters requested that under the requirement on nonacademic services the term "cocurricular" be substituted for "extra curricular" and that intramural, extramural, and interscholastic athletics be included in order to insure consistent use of terminology as it applies nationally. Another commenter suggested that specific language be included regarding participation of visually handicapped persons.

Response: The suggested terms were not adopted. This section conforms to the language in the final regulations under section 504. Also, the suggested language on visually handicapped was not included. This requirement applies to all handicapped individuals, including those with visual handicaps.

PHYSICAL EDUCATION (§ 121a.307)

Comment: Some commenters felt that the section on physical education (PE) needed to be clarified, particularly the conditions under which a handicapped child would not be required to participate in the regular PE program; (e.g., the child (a) is enrolled full-time in a separate facility, (b) needs specially designed PE, or (c) the parents and agency agree that the child should not participate). The main concern dealt with the parent-agency agreement, because it appeared to provide a loophole in which a child would not be required to participate in any PE activity.

Response: The statement on parent-agency agreement was deleted. With this change, a handicapped child attending a regular school would participate in the regular PE program, unless the child needs specially designed PE as prescribed in his or her individualized education program (IEP). Parent-agency agreement is inherent in the development of a child's IEP. The decision as to whether the child should be in the regular PE program or receive specially designed PE is made in the IEP meeting in which the parent and agency personnel are represented.

It should be noted that every handicapped child would participate in some type of PE activity. Specially designed PE could involve arrangements for a child to participate in some individual sport or physical activity (e.g., weight lifting, bowling, or an exercise or motor activity program).

Other changes: Proposed section 121a.204 (Incidental use of property) has been deleted.

Priorities in the Use of Part B Funds

As part of the provision on free appropriate public education, the law requires each State and local educational agency to establish priorities, first with respect to handicapped children not receiving an education (defined as "first priority children" in the regulations) and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education (defined as "second priority children"). The law further requires that, except for State administration funds, each State and local educational agency must use its full entitlement under part B "in accordance with the priorities." The regulations which implement these priority requirements are included in sections 121a.320–121a.324.

PRIORITIES (§ 121a.321)

Comment: Many commenters were concerned that first priority expenditures cannot be used for inservice training for personnel who can serve those students, and stated that such inservice training activities may be an essential component toward achieving the first priority.

Response: The proposed rules have been redrafted and expanded in order to address the above concerns. A new section was added to make it clear that an agency may use Part B funds for inservice training concurrently with placing a first priority child in school (in an interim program, if a component of the child's program is missing). However, the provision of inservice training may not be used as a pre-condition for service to the child.

The intent of Congress with respect to the education of first priority children is both long-standing (dating back to Pub. L. 93–380) and very clear, as reflected in the following statements:

(1) The Congress has a responsibility "* * * to see that all persons are assured equal opportunity. For handicapped children, this means, at the very least, that they must be educated * * * These funds must be focused in such a way that we are assured that handicapped children are provided their right to education." (Congressional Record—Senate, June 18, 1975, p. S10969)

(2) "First priority for spending under the legislation is to provide services for handicapped children who are not now being served. The flexible approach in the Conference Report with respect to the current fiscal year, fiscal year 1977 and fiscal year 1978 will allow for concentrations of moneys so that this priority can be met." (Congressional Record—House of Representatives, November 18, 1975, p H12348)

(3) "There are millions of children with handicapping conditions who are receiving no services at all. And since we must have a place to start, it is appropriate that we give priority to those who are receiving no services at all first, and then try to reach those with the most severe handicaps who have traditionally received only minimal attention second." (Congressional Record—Senate, June 18, 1975, p S10961)

Comment: Several commenters requested clarification regarding whether the requirements on the use of funds for priorities apply within or among local educational agencies (e.g., if an agency is serving all of its first priority children, could a State give that agency's entitlement to another agency which is not serving all of its first priority children?).

Response: No change has been made. The statute does not permit the State to take away a local educational agency's Part B funds solely because the local educational agency is serving all of its first priority children. For the limited circumstances where a local educational agency's funds may be reallocated, see section 121a.708.

Other changes: A new paragraph (c) has been added to section 121a.321, which provides that Part B funds cannot be used for preservice training. This addition was made to implement Congressional intent expressed in Senate Report No. 94–168, p. 34 (1975), in which it was stated that funds for preservice training are available under the training program under Part D of the Act, and that Part B funds should not be used for this purpose.

Individualized Education Program

The requirements on individualized education programs (IEPs) in Subpart C have been reorganized and redrafted substantially, based largely on comments received. (These sections have been renumbered, starting with section 121a.340.) A summary of these changes is included below:

(1) A definition of IEP has been added which states that the term "IEP" means a written statement on a handicapped child that is developed and implemented in accordance with sections 121a.341–121a.349 of Subpart C.

(2) The proposed section entitled, "Scope" has been deleted and the substance combined with the section on "State educational agency responsibility."

(3) The proposed section on "Local educational agency responsibility" has been replaced by two new sections ("When IEPs must be in effect" and "Meetings").

(4) The section on "Participants in meetings" has been redrafted to adopt essentially verbatim the language in the Act and to add a new paragraph on participation of evaluation personnel.

(5) The proposed section on "Parent participation" has been amended to include specific provisions regarding notifying parents about the IEP meetings.

(6) The substance under the proposed section on "Content of IEP" has been replaced with the statutory language.

(7) The proposed section on "Private school placements" has been reorganized into two sections to conform to the two groups of private school handicapped children in Subpart D, and has been expanded to spell out in more detail the responsibilities of State and local educational agencies in administering this provision.

(8) A new section was added, entitled, "IEP—accountability."

TIMING OF IEP MEETINGS (§§ 121a.342–121a.343)

Comment: Many commenters felt that the final rules should provide more flexibility to agencies in terms of when IEP meetings are conducted.

Response: The following changes were made in the proposed rules in an attempt to clarify this provision. First, the regulations now specify the dates on which IEP's must be in effect (October 1, 1977, and the beginning of each school year thereafter). Second, except for new handicapped children (those initially evaluated after October 1, 1977), the timing of meetings to develop, review and revise IEPs is left to the discretion of each agency. (For a new handicapped child, a meeting must be held within thirty days of a determination that he or she needs special education.) The regulations are flexible on the schedule to be followed by public agencies in meeting the above dates.

PARTICIPANTS IN IEP MEETINGS (§ 121a.344)

Comment: A number of commenters recommended that personnel from specific disciplines be participants at IEP meetings (e.g., physicians, health care personnel, psychologists, and representatives from other agencies, such as Head Start). Some commenters felt that the meetings should include all direct service personnel who work with a handicapped child. Other commenters suggested cutting back on the number of people who participate.

Response: The final regulations only require the participants listed in the statute, except in the case of a child who has been evaluated for the first time. (NOTE: Participation of evaluation personnel in IEP meetings is covered under the next comment-response sequence.)

Generally, having a large group of people at an IEP meeting may be unproductive and very costly, and could essentially defeat the purpose of insuring active, open parent involvement.

While it is necessary to insure that all direct services personnel who work with a handicapped child are informed about and involved in implementing the child's IEP, this does not mean that they should attend the IEP meetings. The mechanism for insuring the involvement of all IEP implementers is left to the discretion of each agency (e.g., the child's teacher, or principal, or supervisor could have that responsibility). However, this is a basic administrative procedure which can be handled outside of the context of the IEP meeting.

The statute does not require all IEP implementers to be involved in the meetings. In fact, the definition of IEP in section 602(19) of the Act includes only four people (e.g., a special education provider or supervisor, the teacher, the parent, and the child, where appropriate). Moreover, it was the intent of Congress that IEP meetings generally be small. This position is reflected in the following statement by Senator Randolph in the June 18, 1975 Congressional Record:

> In answer to my colleague, it was the intent, and I believe, I can speak for the subcommittee and the committee in this matter, that these meetings * * * be small meetings; that is, confined to those persons who have, naturally an intense interest in a particular child, i.e., the parent or parents, and in some cases the guardian of the child. Certainly the teacher involved or even more than one teacher would be included. In addition, there should be a representative of the local educational agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children.
>
> These are the persons that we thought might well be included. That is why we have called them "individualized planning conferences". We believe that they are worthwhile, and we discussed this very much as we drafted the legislation.

While very large IEP meetings might generally be inappropriate, there may be specific instances where additional participants are essential. In order to enable other persons to be included, the Office of Education retained a provision from the proposed rules which authorized the attendance of "other participants, at the discretion of the agency or parents."

Comment: Some commenters recommended that members of the evaluation team participate in IEP meetings.

Response: A new paragraph has been added which states, in effect, that an evaluation person must participate in any IEP meetings conducted for handicapped children who have been evaluated for the first time (i.e., the preplacement evaluation required under section 121a.531 of Subpart E). Since the meeting is intended to develop an education program for the child, it is essential that someone at the meeting be familiar with the child's evaluation.

Comment: Several commenters recommended that the representative of the agency be qualified in the disability area in which the IEP is written.

Response: A comment has been added following section 121a.344 which suggests (but does not require) that either the teacher or the agency representative should be qualified in the area of suspected disability. At the time of the meeting, the public agency may not yet have hired a person qualified to provide special education with respect to that suspected disability.

PARENT PARTICIPATION (§ 121a.345)

Comment: Some commenters stated that documenting efforts to involve parents would be difficult and time consuming. One commenter felt it was important to retain the general statement requiring agencies to involve parents, but recommended that the details in the parent participation section be deleted from the final regulation. Another commenter recommended that the section be dropped because it is not required in the law and is "* * * utterly paternalistic. If a local education agency is foolish enough to keep inadequate records on transactions with parents, it alone stands in jeopardy; there is no damage to parents or to handicapped children."

Response: The comments have not been adopted. The Office of Education believes that it is important to retain this section in the final regulations, for the following reasons:

First, the section provides rules that allow agencies to proceed in conducting IEP meetings in cases where parents cannot or will not attend. Without this authorization, the IEP process might come to a halt in some cases, since the law states that an IEP must be developed at a meeting with the parents.

Second, the section is designed to protect agencies by setting the conditions under which they can proceed.

Third, the section is designed to protect the rights of the parents. The Congress intended that IEP meetings be utilized as an extension of the procedural protections guaranteed under Pub. L. 93-380. However, if the regulations provided an authorization for agencies to proceed without the parents, there is a potential problem that the authorization (without documentation) might be inappropriately applied in individual cases, which could result in parents' rights not being protected.

Comment: A few commenters suggested using surrogate parents if a child's parents could not attend an IEP meeting. One commenter recommended adding a provision to enable the parents to designate a person to represent them at a meeting.

Response: The Office of Education elected not to write regulations on either of these suggestions.

First, a surrogate parent is appointed only in accordance with the procedural safeguards in Subpart E. The provision was not meant to apply in situations when parents are unwilling to participate, or when an agency makes unsuccessful efforts to communicate with a known parent. A surrogate parent is appointed only when the parents are unknown, unavailable or the child is a ward of the state. However, a surrogate parent appointed under appropriate circumstances would attend the IEP meetings and represent the child in all matters relating to the provision of a free appropriate public education to the child.

Second, with respect to parent designated representatives, the Office of Education does not feel that any change in the regulation is warranted. Parents unable to attend an IEP meeting, who are interested enough in their child's education to seek a third party representative, would have direct input in developing the child's IEP through individual or conference telephone calls or other methods authorized under paragraph (c) of section 121a.345.

Other changes. A new paragraph (f) has been added to require that parents be given a copy of the IEP on request. This should help to insure that the parents are fully informed of the program for their child, and will assist them in participating in future meetings on the IEP.

CONTENT OF IEP (§ 121a.346)

Comment: Hundreds of commenters responded to this section. Some commenters requested that additional services or other items be added. Other commenters recommended that the section be sharply cut back, because they felt that this went unnecessarily beyond the items listed in the statute. Many of the commenters wanted the specific service areas they represent added to the list of services to be provided in the IEP. Others felt that this went unnecessarily beyond the items listed in the statute.

Response: The Office of Education has elected to amend this section by adopting substantially verbatim the language from section 602(19) of the statute. The regulation retains one clarification from the proposed rules, that the individualized education program must include related services to be provided to the child, as well as special education and the extent to which the child can participate in regular education programs. However, given the controversy over this section and whether it is appropriate to add items not specifically covered in the statute, the Office of Education has decided that some experience operating under the statute would be useful before considering whether further regulations on this point would be appropriate.

IEP—ACCOUNTABILITY (§121a.349)

Comment: In the preamble to the proposed rules, a statement was made that the IEP is not a legally binding document. Many commenters recommended that this statement should be included in the body of the final regulations. Other commenters felt that the statement needed to be clarified.

Response: The Office of Education has added a new section, which states, in effect, that each public agency must provide special education and related services in accordance with a handicapped child's IEP. However, Part B does not require that the agency, the teacher, or other persons be held accountable if the child does not achieve the growth projected in the written statement.

COLLECTIVE BARGAINING

Comment: Numerous commenters recommended that the regulations deal with the fact that the required participation of teachers (and other agency staff) in the meetings to develop IEPs would require modification of collective bargaining agreements. Some commenters urged that the regulations require additional compensation for teachers to participate in these meetings, prescribe or limit any after-school-hours participation, and specify arrangements for relieving teachers from classroom duties for the meetings.

Response: No change has been made in the regulation. The requirement for teacher participation in developing IEPs is statutory. The Commissioner understands that collective bargaining agreements and individual annual contracts for teachers vary greatly among local educational agencies and may or may not deal with additional duties and compensation for after-hour activities. In some instances, especially in urbanized and highly unionized areas, collective bargaining agreements may have to be renegotiated to cover employee participation in IEPs. However, this is an area which is solely within the authority of the public agency and its employees (and their union representative, if any). It would be inappropriate and beyond the scope of the Commissioner's authority to prescribe how this requirement must be met. Where collective bargaining agreements must be modified, the public agency must negotiate the appropriate modifications to comply with the statute. The public agency is also responsible for insuring that the IEP meetings are conducted at a time reasonably convenient to parents. (In some cases this may be during school hours; in others, after hours.) The agency also must make its own arrangements for covering classrooms when teachers are absent.

DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY

The direct services provision of this subpart includes sections on (1) use of local educational agency (LEA) funds, (2) nature and location of services, (3) use of the State's (SEA's) entitlement, and (4) a State matching requirement.

The section on the use of LEA allocations (renumbered section 121a.360) has been redrafted to combine the proposed paragraphs (a) and (b) into a single paragraph. This paragraph sets out the conditions under which an SEA may use an LEA's entitlement.

A new paragraph (b) has been added to section 121a.360, which states that in meeting the requirements of this section, the SEA may provide special education and related services directly, by contract, or through other arrangements.

A new paragraph (c) has been added, which repeats the statutory provision that the excess cost requirement does not apply to State educational agencies.

Section 121a.360 (Nature and location of services) has been amended to correct an error made in the proposed rule. The proposed regulation stated that the least restrictive environment (LRE) provisions do not apply when the SEA provides direct services. The amended rule now states that the manner in which the education and services are provided must be consistent with the requirements of this part (including the LRE provisions).

The regulation on "State matching" was not substantially changed. However, a comment was added after this section to make it clear that the requirement would be satisfied if the State can document that the amount of State funds expended on each major program area (e.g., the comprehensive system of personnel development) is at least equal to the expenditure of Federal funds in that program area.

Comment: In the preamble to the proposed rules under the direct services provision, a point was made that an LEA would not be in compliance with the section 504 regulations if that agency did not make available a free appropriate public education (FAPE) to all of its handicapped children. A commenter, in responding to this statement, pointed out that the term FAPE has different meanings under section 504 and Pub. L. 94–142; and, therefore, an LEA would not have to meet the requirements of Pub. L. 94–142 in order to be in compliance with section 504.

Response. Under Part B, "FAPE" is a statutory term which requires services to be provided in accordance with an IEP. However, under the section 504 regulations, each recipient must provide an education which includes services that are "designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met * * *" Those regulations state that implementation of an IEP, in accordance with Part B, is one means of meeting the "FAPE" requirement. (NOTE.—A more detailed description of the relationship between section 504 and Pub. L. 94–142 is included in this appendix.)

Other changes: A new section 121a.372 has been added to implement section 611(c)(3) of the Act. This section provides that the nonsupplanting requirement does not apply to the State's expenditure of its allocation beginning with funds appropriated for Fiscal Year 1979 and for each following fiscal year.

COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

GENERAL

The proposed rules in this section created some controversy over the amount of detail contained in the regulations. Comments ranged from requests for more specificity to suggestions that everything be deleted except the statutory language.

The statute is very clear in requiring that a "comprehensive system of personnel development" be implemented in each State. Since this is a broad requirement, challenging each State to reach out to the expansive community of agencies involved in preparing personnel to educate the handicapped, many of which are private and not under the control of the State, it was felt that a regulation was needed that would provide sufficient information for the State and involved agencies to understand their responsibilities in achieving compliance.

SCOPE OF SYSTEM (§ 121a.380)

Comment: A commenter suggested that inservice education be available to all special, regular, and related service personnel.

Response: Paragraph (a) of section 121a.380 was changed to read "the inservice training of general and special educational instructional, related services, and support personnel."

Comment: A commenter suggested that all personnel preparation services be conducted in accredited institutions granting advanced degrees and that "no less than ten percent of the money under this Act be contracted to institutions of higher education." Another commenter recommended the earmarking of a percentage of funds for staff and program development.

Response: No change has been made in the regulations. The Office of Education believes that each State must have maximum latitude in decisions regarding the types of facilities and personnel that are used to implement the comprehensive system of personnel development.

With respect to targeting funds for training, the Office of Education feels that such a step would be inappropriate at this time.

Part B is a unique Federal statute in that it imposes requirements on States which must be implemented, regardless of the amount of Federal funds available. Given the scope and magnitude of the law, the Office of Education believes that each State should have maximum latitude in terms of how its Part B funds are used to implement the various statutory provisions, subject, of course, to the priority requirements in Subpart C.

DEFINITION OF "APPROPRIATELY AND ADEQUATELY PREPARED AND TRAINED" (PROPOSED §121a.261)

A number of comments were received on the definition of "appropriately and adequately prepared and trained" which was in § 121a.261 of the proposed rules. The definition has been deleted in the final regulations. Instead, the term "qualified" is used, as defined in § 121a.12.

Comment: A commenter suggested that nationwide certification requirements be mandated to allow for the mobility of personnel.

Response: No change has been made. The intent of the Act is to insure that all personnel necessary to carry out the purposes of the Act are qualified. The Act does not authorize the establishment of national certification standards.

Comment: A commenter suggested that early childhood be required as an area for certification.

Response: No change has been made. These personnal must be included under the State's comprehensive personnel development system.

Comment: Several commenters expressed the belief that certification should not be required for all personnel directly serving the handicapped, or that such a requirement would result in great expense for the State. Still others felt that competency based systems should be used as opposed to the requirement for certification, registration, or licensing.

Response: The statutory language "appropriately and adequately prepared and trained" has been interpreted, by use of the term "qualified," to mean certification, registration, or licensing. These are commonly accepted procedures for determining if personnel are "appropriately and adequately prepared and trained.".

PARTICIPATION OF OTHER AGENCIES AND INSTITUTIONS (§ 121a.381)

The comments on the level and intensity of the "participation" required in this section ranged from the belief expressed that special meetings on components of the state plan are not required in the Act, therefore the "participation" envisioned in section 121a.381 should be eliminated, to the suggested requirement that organizations not only have an opportunity to participate, but that they "must participate." The comprehensive system of personnel development is such a specialized aspect of the Act, necessarily involving agencies not under the jurisdiction of the State that "participation" is fully warranted, though not mandated in the statute. Thus, the regulations set a requirement for the State to insure that those agencies with an interest in the preparation of personnel for the education of the handicapped have an opportunity to participate fully in the development, review, and updating of the system. This is a reasonable requirement, especially considering the critical effect the system will have on those agencies preparing the personnel. Rather than a burden on the State, the "participation" should provide the direct opportunity for the State to encourage the development of quality personnel preparation programs, a factor essential to the provision of a "free appropriate public education."

Comment: Several commenters suggested that "representatives from each group be included in the planning" as well as parents. One commenter suggested that disability categories and groups be listed in the proposed rule.

Response: The regulation has been altered to include representatives of handicapped and parent organizations. This wording should be sufficient to involve all relevant groups.

Comment: A commenter suggested the addition of a subsection (3) to section 121a.381(b) that would require the annual program plan to include a description of agency responsibilities with respect to research and evaluation of exemplary programs that could be implemented in local educational settings.

Response: Sections 121a.385 and 121a.386 have been modified to classify agency responsibilities.

INSERVICE TRAINING (§ 121a.382)

Comment: There were a number of contrasting points of view and suggestions on this section, ranging from requests to mandate greater detail in the proposed rules, to the suggestion that the section be deleted altogether. Those proposing greater detail suggested that specific knowledge and areas of learning be emphasized and that teachers be trained "by having them work one-to-one with specialists" and that "inservice training be mandated at the local level, a county being the largest unit possible, to prevent the State from using the money for ineffectual regional workshops." Also, there were suggestions that where academic credit is to be made available that this be done only in institutions of higher education with State approved programs.

On the other extreme there were suggestions that this section "exceeds statutory requirements" and "federal rules should not say how a task is accomplished" and "(state) provides adequate training and inservice and does not need more obstacles and regulations."

Response: The statute clearly requires inservice education as a central part of the comprehensive system of personnel development and it is appropriate for the rules to detail the nature and extent of the inservice education that is required. This has been accomplished through the outlining of procedures which define inservice education, its parameters, and relationship to required needs assessments. However, the rules do not define the specific nature of the training to be accomplished. Thus, the rules have been designed to outline the foundation for an adequate program of inservice education, without stifling the creativity of State and local personnel in their efforts to plan and implement such a system.

Comment: A commenter suggested that the statement "in cooperation with institutions of higher education" be inserted in section 121a.383(b)(1).

Response: No change has been made. However, involvement of institutions of higher education is required under § 121a.381(a).

Comment: A number of commenters suggested the addition of specific disciplines and professionals to this section, constituting an itemized list of personnel to be trained or involved in the review of training needs.

Response: No change has been made. The State's plan must include all personnel who need training.

Comment: Several commenters suggested wording changes designed to clarify the text of the proposed rule on inservice training.

Response: Changes were made where necessary to bring the regulation into conformity with current usage.

Comment: There were a number of suggestions concerning the financial arrangements for conducting inservice training. Some commenters advocated the funding of parent groups to conduct inservice training. Others suggested financial support for trainees involved in their programs. One commenter urged that the rule allow for contracting with other than non-profit organizations. One suggested contracts with institutions of higher education to carry out personnel development programs. Another suggested incentives for teacher participation, including released time and college credit. One suggested that inservice be provided during contract time, not involving extra hours.

Response: No substantive changes have been made. All of the suggestions in the above comments are authorized under these regulations.

PERSONNEL DEVELOPMENT PLAN (§ 121a.383)

Comment: Several commenters asked for special attention to physical education and service delivery models which take into account problems of rural families.

Response: No change has been made. Specialized needs in physical education and the unique aspects of providing services in rural settings should be addressed as appropriate in the needs assessment and plan.

Comment: One commenter objected to including preservice training under this section.

Response: No change has been made. The term "inservice" education is used in the Act. However, since the Act clearly requires that a "comprehensive system of personnel development" be developed, such a system must include the consideration of preservice training.

NOTE.—The data required in sections 121a.124 and 121a.126 of Subpart B on the numbers of handicapped children and the kind and number of personnel needed will serve as the uniform data base within the State for the personnel development system under § 121a.383 of this subpart. The data may also be used by institutions of higher education and other nonprofit educational training agencies in submitting personnel preparation applications under Part D of the Act. Section 121f.9 of the regulations under Part D (45 CFR 121f.9) provides as follows:

§ 121f.9 *State personnel needs.*

Each application shall include (a) a statement by the State educational agency of personnel needs for education of the handicapped and a statement by the applicant of how the proposed program relates to those stated needs, and (b) a description of the ways in which the recipient's program goals and objectives relate to the purposes of Part D of the Act.

(20 U.S.C. 1431, 1432, 1434)

DISSEMINATION (§121a.384)

Comment: One commenter suggested that "teachers organizations" be specified as recipients of information.

Responses: No change has been made. Teacher organizations are included under the phrase "other interested agencies and organizations."

SUBPART D—PRIVATE SCHOOLS

The proposed rules created a certain amount of confusion among commenters in distinguishing between handicapped children placed in or referred to private schools by the State or by local educational agencies and handicapped children whose parents choose to educate them in private schools. The major difference between these two groups of children is in who bears the cost of the private school.

A free appropriate public education must be made available to each handicapped child by the public agencies of the State. Subject to the requirements on least restrictive environment, this could include placement in or referral to a private school or facility. Such a placement or referral must be at no cost to the parent.

On the other hand, even if a free appropriate public education is available, the parent may choose not to accept it. The parent may choose to send the child to a private school rather than take advantage of the free public education. If this happens, the Act does not require the State or local educational agency to bear the cost of the private school. For children placed in private schools by their parents, the State and its local educational agencies have a different duty. They must design their program so that handicapped children in those private schools can participate in special education and related services offered by the local educational agencies if the parents of those children so desire.

The regulations have been reorganized to make these distinctions clearer. The first set of sections (121a.400–121a.403) now cover children placed in or referred to private schools or facilities by a public agency in order to provide them with special education or related services. (These sections replace sections 121a.320–121a.323 of the proposed rules.)

Since the "State" includes all of its political subdivisions, the term "public agency" is used, as elsewhere in the regulations, to mean all of the political subdivisions of the State which are responsible for providing special education or related services to handicapped children.

The second set of sections (121a.450–121a.460) apply to handicapped children enrolled in private schools or facilities but who are not placed or referred there by a public agency to receive special education or related services. (These sections replace sections 121a.300–121a.306 of the proposed rules.)

The following comments were made regarding proposed Subpart D. Comments which asked for changes not authorized under the statute are not summarized. (Commenters who are concerned about the cost of room and board as a "related service" are referred to section 121a.302 and the discussion of that section in this preamble.) The comments are arranged in order of the final rules.

RESPONSIBILITY OF STATE EDUCATIONAL AGENCY (§ 121a.401)

Comment: A commenter asked that paragraph (a)(3) be deleted, which required that the special education given to a handicapped child placed by a public agency must meet the education standards of the State educational agency (SEA). The commenter stated that otherwise there would be conflicts between the SEA's standards and those of other agencies, in the day care area, for example.

Response. Paragraph (a)(3) cannot be deleted, since it is derived from a statutory requirement. However, it has been revised by using the language of the statute. This will broaden the types of standards that the SEA may apply, and therefore avoid conflict with other mandatory standards. Of course, those standards cannot override the provisions in Part B of the Act.

Comment: A commenter asked that provision be made for interstate referrals to private schools and communication among States regarding those referrals.

Response. No change has been made in the regulation. Referrals between States are to be handled under existing procedures. Unless a problem develops in this area that seriously interferes with the rights of handicapped children or their parents under Part B, the Office of Education is reluctant to regulate the mechanisms by which the States arrange to provide services.

IMPLEMENTATION BY SEA (§121a.402)

Comment: A commenter suggested that the State educational agency insure the monitoring of private schools, dissemination of standards to them, and involving them in developing State standards, rather than the State educational agency doing it directly.

Response: No change has been made. The statute places direct responsibility on the State educational agency to administer and monitor the requirements under Part B. While the State educational agency in many areas need only insure that the Part B requirements are met, monitoring must be done by the agency itself. Dissemination of standards could be done in a variety of ways. Involvement in development of State standards would have to be done directly by the State educational agency if it is the agency that develops those standards.

PLACEMENT OF CHILDREN BY PARENTS (§ 121a.403)

Comment: Commenters were concerned with the effect of this section on the rights of handicapped children in private schools and felt that the section was worded in a manner that would limit those rights.

Response: The section has been revised to make it clear that a free appropriate public education (FAPE) must be made available to each handicapped child. This would include the development of an individualized education program and placement in the least restrictive environment. Free appropriate public education must be made available at no cost to the parents. If the parents felt that services were not adequate, they may have a due process hearing to show that more or better services must be provided to give their child FAPE. However, if the parents choose not to educate their child in the public school system, they are not required to do so. In that case, the relevant public agency has the remaining duty of offering special education and related services under sections 121a.450–121a.460, but does not have the duty of insuring that the private school meets the requirements of Part B (unless other handicapped children have been placed in or referred to that private school by the agency), or of paying for the cost of the private school. Language has been added to clarify the public agency's duties under sections 121a.450–121a.460.

Other changes: Proposed section 121a.222 (Placements in another State) has been deleted. It would have required private schools to meet the standards of both the sending and receiving States. This would have been an unreasonable burden on the receiving State to enforce.

HANDICAPPED CHILDREN IN PRIVATE SCHOOLS NOT PLACED OR REFERRED BY PUBLIC AGENCIES (§§ 121a.450–121a.460)

Comments: A number of commenters felt that clarification was needed in these sections. There was also some concern expressed regarding the State's legal authority to provide services to children enrolled in private schools.

Response: The regulations have been amended to conform more closely to those under Title I of the Elementary and Secondary Education Act of 1965 (education of educationally deprived children) (45 CFR, Section 116a.23). As under Title I, a balance is drawn between the statutory requirement to provide services, and the constitutional necessity of avoiding excessive entanglements between public agencies and church-related institutions. It is also important for the Office of Education to have a uniform policy regarding services to private school children under all Federal education programs it administers. The amendments to the proposed rules should serve all of these purposes.

Subpart E—Procedural Safeguards

This subpart implements the procedural safeguards set forth in the Act, including due process procedures for parents and children, protection in evaluation procedures, least restrictive environment, confidentiality of information, and procedures of the Office of Education.

A substantial number of detailed comments were received on these sections. Many concerned the statute rather than the regulations or did not state what changes in the regulations were desired. Others requested revisions which did not appear to involve substantive changes. Some comments sought substantially more detailed specification of due process rights while others indicated that the statute itself was so detailed in the due process area that the regulations should not go beyond the statute.

As stated earlier in this preamble, the Office of Education's position, while incorporating a number of the suggestions in the final regulations, is still to adopt minimum regulations in this area at this time, review experience under the regulations, and then made a determination as to whether more detailed regulations are required.

Due Process Procedures for Parents and Children

DEFINITIONS (§ 121a.500)

Comment: Commenters recommended that the phrase "unless it is clearly not feasible to do so" be deleted from the definition of consent and that additions be made to make it clear that consent may be revoked and may not be made a precondition to the child's right to participate in basic educational programs. The effect of deleting the phrase would be to require that a consent is not valid unless the parent is informed in every case of the information relevant to the consent.

Response: The phrase has been deleted. The deletion of the phrase will help to assure an informed consent in every case, regardless of the parent's language or other mode of communication. A phrase has been added to make it clear that parents have the right to revoke consent. A separate section 121a.504 states that consent may not improperly be made a precondition of services. While public agencies must obtain consent for preplacement evaluations or for initial placement, a public agency may not coerce parents to consent by withholding or threatening to withhold other regular education services or extracurricular activities unless the parent consents.

Comment: Several commenters requested changes in the definition of "evaluation" to indicate that an evaluation must be conducted by qualified personnel, that the findings must be reduced to writing, and that it must take into account the child's assets as well as deficits.

Response: No change has been made. The suggestion reagarding qualified personnel is covered under section 121a.532. The Office of Education expects that evaluations will be in writing and that a child's assets will be considered. If a problem develops in this area, the Office of Education will reconsider the necessity for further regulations.

GENERAL RESPONSIBILITY OF PUBLIC AGENCIES (§ 121a.501)

Comment: Commenters suggested that parents have the right to complain and that agencies should be required to respond to them outside of the context of a hearing.

Response: No change has been made in the regulation. However, agencies should certainly seek to respond to complaints by informal discussions and negotiations. A comment section has been added which notes that mediation may be useful in some instances. In any case, negotiations may not delay a hearing if a parent has requested it.

INDEPENDENT EDUCATIONAL EVALUATION (§ 121a.503)

Comment: Commenters disagreed as to whether the parent's right to an independent evaluation should be broadened or narrowed.

Response: The section has been rewritten to require public agencies to provide parents information, upon request, of where an independent educational evaluation may be obtained. Also, "public expense" has been defined. However, the interpretation in the proposed regulations is retained. The evaluation must be at public expense if the parent disagrees with the evaluation by the public agency, unless the public agency initiates a hearing to show that its evaluation is appropriate. If upheld, the expense of the independent evaluation does not have to be borne by the agency. The independent evaluation must be considered in any hearing.

There are several competing interests which the regulation seeks to balance. The statutory right of the parent to an independent educational evaluation must be preserved. On the other hand, the public agencies should not be asked to bear the costs of unreasonably expensive independent evaluations. Also, for the independent evaluation to be useful, it must meet the same criteria as evaluations conducted by public agencies under this part.

PRIOR NOTICE; PARENT CONSENT AND CONTENT OF NOTICE (§§ 121a.504–121a.505)

Comment: Commenters sought further specificity as to the detail of information provided to parents in the notice. Other commenters felt that the requirements were too demanding. Some commenters asked that consent be required for preplacement evaluation and prior notice for reevaluation; and that consent be extended to include permission for placement. Other commenters sought to delete the consent requirement on the grounds that educational judgments should be final.

Response: The basic notice requirements in sections 121a.504 and 121a.505 were not changed. However, the following changes were made in the consent requirements:

(1) Consent was expanded to include permission for initial placement of a handicapped child in a special education program. Many commenters had requested this addition; and the Office of Education agrees that this requirement is as essential as consent for preplacement evaluation.

(2) The proposed consent rule was changed from consent for all evaluations to consent for the initial or preplacement evaluation. This change is essentially consistent with the section 504 final regulations (45 CFR Part 84, § 84.35(a)). The Office of Education agrees with commenters that there is no need to require consent for reevaluation. If a handicapped child is initially placed in accordance with section 121a.504, and if his or her individualized education program is annually reviewed in accordance with section 121a.343 of Subpart C, a requirement is not necessary. However, prior notice would have to be provided.

Comment: Commenters were especially concerned that clarification be added regarding procedures for overriding parents' refusal to consent.

Response: A subsection has been added to set out procedures for dealing with parental refusal to consent (see section 121a.504(c) and the comment following that section).

The procedures are designed not to interfere with existing State laws which may require consent. Where State law does not require consent, the parent is afforded a due process hearing under this Part. These rules should provide protection to the parent, the child, and the public agency.

IMPARTIAL DUE PROCESS HEARING (§ 121a.506)

Comment: A commenter asked that the regulations specify that the public agency must pay for the hearing.

Response: The change requested by the commenter has not been made. Since the statute requires that the public agency must afford parents an opportunity for a hearing, the agency must bear the cost of the hearing, except for paying for parents' representatives and witnesses. However, section 121a.506 has been amended to require agencies to provide parents with information about free or low-cost legal and other relevant services that are available.

IMPARTIAL HEARING OFFICER (§ 121a.507)

Comment: Commenters sought to have three-person panels, including parents, serve as the hearing officials. Some sought to allow and others sought not to allow school board officials from serving as hearing officials. Commenters also asked that lists of hearing officers be required, including their qualifications.

Response: A requirement has been added that each public agency keep a list of persons who serve as hearing officers and a statement of their qualifications. This should help to ensure that the requirement for impartiality is met. No other substantive change has been made. A three-person panel could be used under the existing rules, as long as the conditions of impartiality are met. However, a parent of the child in question and school board officials are disqualified under section 121a.508.

HEARING RIGHTS (§ 121a.508)

Comment: Commenters disagreed as to whether hearing rights set forth in the proposed rules should be expanded or restricted. Among the additional rights sought were the right to compel the attendance of witnesses, prohibit the introduction of evidence not disclosed prior to the hearing, allow the child to be present and the hearing to be open to the public at the parents' discretion, and to specify whether the record of the hearing must be free or at reasonable cost.

Response: The section has been revised to add rights for any party to prohibit the introduction of evidence not previously disclosed to the other party and for the child to be present and the hearing to be open to the public. The purpose of hearings under this part is to ensure that handicapped children are provided free appropriate public education. Opening up the hearing and the evidence that may be presented should serve to insure that the result of a hearing will be in the best interests of the child. No provision has been added relating to cost. However, it is expected that a copy of any decision would be provided to the parent at no cost.

HEARING DECISION; APPEAL (§ 121a.509)

Comment: A commenter sought to add a requirement that specifies that the hearing officer has the power to order any educational program for the child and that his or her power not be limited to accepting or rejecting the program by the public agency or parent.

Response: No change is necessary. The hearing officer has the function to decide what placement is appropriate, if that is the subject of the hearing.

ADMINISTRATIVE APPEAL; IMPARTIAL REVIEW (§ 121a.510)

Comment: Commenters disagreed on whether to reduce or expand the requirements in this section. Some commenters wanted short, specific timelines set out for various actions and specification of the rights that apply at the review level.

Response: The section has been revised to specify other duties and powers of the reviewing official, in addition to those already set out. For example, the official may seek additional evidence if necessary, including holding a new hearing and affording the parties an opportunity for written as well as oral argument (at the reviewing official's discretion). The reviewing official must give a copy of the written findings and decision to the parties. These duties and powers are regarded as necessary to insure that a full review will be conducted and that all parties will be informed of the result of the review. Revisions to timelines for any hearing or review are set out in section 121a.512.

CIVIL ACTION (§ 121a.511)

Comment: Commenters wanted the regulations revised to allow for direct appeal to the courts without first using administrative hearing and review procedures if those procedures would be futile, the timeliness or adequacy of the administrative proceedings are being challenged, or a class action is involved. Commenters cited language in the Congressional Record in support of this interpretation (121 Cong. Rec. S20433 daily ed., November 19, 1975).

Response: No change has been made. The legislative history cited is nongermane as it was made in reference to the Senate Bill (S. 6) which did not contain the final statutory provision on civil actions. The provision on civil action was added as a Conference substitute. The issue of exhaustion of remedies will be up to the courts to resolve.

TIMELINESS AND CONVENIENCE OF HEARINGS AND REVIEWS (§ 121a.512)

Comment: Commenters wanted clarification of the 45-day time limit for commencing and completing a hearing and review set out in the proposed regulations. They disagreed on whether the time should be shortened or lengthened.

Response: The section has been revised to set a 45 day time limit for a hearing and a 30 day limit for a State level review. In both instances, a decision must be reached and mailed to each of the parties within the time limits set. A hearing or reviewing officer may grant specific extensions, at his or her discretion, at the request of either party. The Office of Education believes reasonable outside time limits must be set to insure resolution of any dispute quickly so that the child's special education may proceed. Discretion for specific extensions is consistent with normal judicial and administrative practice.

CHILD'S STATUS DURING PROCEEDINGS (§ 121a.513)

Comment: Commenters suggested a provision be added to allow change of placement for health or safety reasons. One commenter requested that the regulations indicate that suspension not be considered a change in placement. Another commenter wanted more specificity to make it clear that where an initial placement is involved, the child be placed in the regular education program or, if the parents agree, in an interim special placement.

Response: A comment has been added to make it clear that this section would not preclude a public agency from using its regular procedures for dealing with emergencies.

SURROGATE PARENTS (§ 121a.514)

Comment: Commenters requested that the regulations clarify when surrogates may be appointed. One reason given was to insure that agencies do not attempt to appoint surrogates when parents are uncooperative or nonresponsive.

Response: The section has been revised to make it clear that the requirements for appointing surrogates apply only when no parent can be identified, the agency after reasonable efforts cannot discover the whereabouts of a parent, or the child is a ward of the State. Agencies are not allowed to appoint surrogates when parents are uncooperative or nonresponsive.

Comment: Commenters requested that the regulations further specify procedures to be used for the appointment of surrogates, including administrative proceedings with notice to interested parties and the right of interested parties to seek a review of the decision.

Response: No change has been made. State procedures for the appointment of surrogates will be followed. Disagreements about the choice of surrogates may be the subject of a due process hearing under section 121a.506.

Comment: A number of commenters suggested that the regulations provide more detail about the qualifications of the surrogates (for example, requiring training and a commitment to becoming acquainted with the child).

Response: No change has been made. The Office of Education believes these concerns are covered by section 121a.514(c)(2) which requires that the surrogate have knowledge and skills that insure adequate representation of the child.

Comment: A number of commenters were concerned about the legal liability of surrogates. Some commenters wanted the regulations to protect surrogates from any legal liability.

Response: No change has been made. The legal liability of surrogates will be determined under State law relating to such matters as breach of fiduciary duty, negligence, and conflict of interest. The Federal government has no authority to limit legal liability.

Comment: A number of commenters sought clarification regarding which agency employees could serve as surrogates. For example, one commenter wanted the regulations to indicate whether the head of a State institution could serve as the surrogate.

Response: The regulation has been reworded to make it clear that no employee of any agency involved in the education or care of the child may serve as the surrogate parent.

PROTECTION IN EVALUATION PROCEDURES

Section 612(5)(C) of the Act requires States to establish non-discriminatory testing procedures for use in the evaluation and placement of handicapped children. The requirements for public agencies to follow in carrying out this provision are set forth in sections 121a.530–121a.534 of Subpart E. (These section numbers have been changed to correspond with other number changes in Subpart E.)

The evaluation procedures in the proposed rules have been changed to conform to the corresponding requirements in the final regulations for section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84, § 84.35) and in response to other comments received. (Many of the comments dealing with the language and substance of the proposed evaluation procedures are covered by the above conforming changes.) A summary of the changes in these procedures is included below:

(1) Proposed section 121a.431 ("Evaluation; change in placement") has been replaced with new section 121a.531 ("Preplacement evaluation"). This corresponds to section 84.35(a) of Part 84.

(2) Proposed section 121a.432 ("Evaluation procedures") has been divided into two sections (section 121a.532 "Evaluation procedures" and section 121a.533, "Placement procedures"). The new section on evaluation procedures (a) incorporates essentially verbatim the language of section 84.35(b) of Part 84, (b) adds two additional requirements from section 612(5)(C) of the Act which are not in Part 84 (e.g., the provision on native language, and the requirement that "No single procedure is used as the sole criterion for determining an appropriate educational program for a child"), and (c) requires that the evaluation be made by a "multidisciplinary team * * * including at least one teacher or other specialist with knowledge in the area of identified disability * * *"

(3) The new section on placement procedures incorporates essentially verbatim the language in section 84.35(c) of Part 84. In addition, the section ties the development

of an individualized education program to the placement procedures.

The following additional comments were made regarding evaluation procedures:

Comment: Several commenters felt that the regulations should require State and local educational agencies to develop procedures for the conduct of evaluations. This would make it possible to determine the adequacy of the evaluations and to insure uniformity in basic procedures.

Response: A paragraph was added to section 121a.530 (General) which requires the State educational agency to insure that each public agency establishes and implements evaluation—placement procedures.

Comment: Several commenters felt that timelines should be set for implementing the evaluation process (e.g., for initial referral to evaluation and placement).

Response: No change has been made. The Office of Education has elected to impose very few absolute timelines in the regulations for this part, because of the potential administrative and legal problems they can cause. Imposing timelines can actually delay the provision of a service (for example, if the time periods are regarded as both minimum and maximum times for implementing a procedure).

A child should be evaluated as soon as possible following referral. Any undue delay in providing the evaluation would raise the question of the State and local educational agencies' compliance with sections 121a.126 and 121a.220 (identification and evaluation of all handicapped children).

Comment: Some commenters requested clarification regarding whether a reevaluation is needed, as required by proposed section 121a.431(a)(2), if the parents and agency agree that the child should be transferred from a special education program to a full time regular class placement.

Response: This specific section has been deleted in the final regulations. However, any changes in a child's placement (including a transfer to a regular class) would not be made until after a meeting is held to review the child's individualized education program in accordance with the requirements under sections 121a.340–121a.349 of Subpart C. If the parents and agency agree that the child no longer needs special education, a reevaluation would not be necessary. Section 121a.531 requires an evaluation before initial placement only. Reevaluations are covered under section 121a.534.

Least Restrictive Environment

Section 612(5)(B) of the Act requires States to establish policies and procedures to insure that "to the maximum extent appropriate, handicapped children * * * are educated with nonhandicapped children * * *." The regulations for implementing this provision are set out in sections 121a.550–121a.556 of Subpart E.

A new paragraph was added to section 121a.550 which requires the State to insure that all public agencies establish and implement procedures in accordance with the requirements of this subpart. In addition, a new section, entitled "Nonacademic settings" was added. This section is taken from a new requirement in the section 504 regulations (45 CFR Part 84, § 84.34).

GENERAL (§ 121a.550)

Comment: A number of commenters requested that provisions be made for special support in the regular classroom in order to accommodate handicapped children (e.g., including reducing the pupil-teacher ratio and assigning aides to the room).

Response: No change was made, since the statute already authorizes the use of supplementary aids and services as a means of enabling a handicapped child to be educated with nonhandicapped children.

CONTINUUM OF ALTERNATIVE PLACEMENTS (§ 121a.551)

Comment: Many commenters responded to this requirement. Some felt that terms other than "continuum" should be used (e.g., "range of programs" and "variety of services"). A large number of commenters felt that "continuum" carried negative connotations (e.g., statements were made that the concept undermines the ideals of Pub. L. 94–142, that it implies best-to-worst, etc.). Other commenters felt that it discriminated against residential or private schools, and suggested that efforts be made to counteract this bias.

Response: No change has been made in this section. The term "continuum," as with "least restrictive environment" (LRE), is commonly used by agencies, advocates, and parents. However, there is nothing to prohibit an agency from using terms such as those included above in administering these provisions.

As with "LRE," the term that is used is not as important as the basic provision and how that provision is implemented. The purpose of a continuum is to be able to accommodate to differences between handicapped children in terms of the degree of special assistance they need to receive a free appropriate public education. This matter was dealt with directly in the June 26, 1975 Report of the House of Representatives on HR 7217 (H. Rept. No. 94–332, p. 9):

> The Committee understands the importance of providing educational services to each handicapped child according to his or her individual needs. These needs may entail instruction to be given in varying environments, i.e., hospital, home, school or institution. The Committee urges that where possible and where most beneficial to the child, special educational services be provided in a classroom situation. An optimal situation, of course, would be one in which the child is placed in a regular classroom. The Committee recognizes that this is not always the most beneficial place of instruction. No child should be denied an educational opportunity; therefore, H.R. 7217 expands special educational services to be provided in hospitals, in the home, and in institutions.

When it is clear that, because of the nature or severity of a child's handicap, the child must be educated in a setting other than the regular class, it is appropriate to implement such a placement. However, the LRE provision is also designed as a rights provision to protect against indiscriminate placement of a child in a separate facility solely because the child is handicapped and not because special education is needed in that type of setting.

Even with respect to severely handicapped children, it may be possible to meet the "regular education setting" goal by having a separate class or separate wing in a regular school building.

PLACEMENTS (§ 121a.552)

Comment: Many commenters were concerned that there may be an overzealous implementation of the LRE provision without regard to the needs of individual handicapped or nonhandicapped children.

Response: No substantive change has been made in this section, because the Office of Education feels that the section includes necessary safeguards to insure protection against the above concerns. With respect to those concerns, the overriding rule is that each child's placement must be determined annually and be based on his or her individualized education program.

With respect to concerns about the harmful effect of placing handicapped children in regular classes, the analysis of the section 504 regulations indicates: "* * * it should be stressed that, where a handicapped child is so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the handicapped child cannot be met in that environment. Therefore regular placement would not be appropriate to his or her needs * * *" (45 CFR Part 84—Appendix, paragraph 24)

Comment: A commenter requested that a new provision be added which requires State and local educational agencies to utilize community-based early childhood development programs for 3–5 year old handicapped children. The main intent of the new provision is "aimed solely at assuring maximum appropriate mainstreaming."

Response: No change was made in the section. The existing provisions are considered to be adequate to cover the intent of this request.

Confidentiality of Information

NOTICE TO PARENTS (§ 121a.561)

Comment: Commenters asked that the detailed content of the notice requirements be deleted as excessive.

Response: No change has been made. The Office of Education believes the provisions require that States provide necessary information to inform parents about the type of information collected about handicapped children to meet the requirements of this part.

ACCESS RIGHTS (§ 121a.562)

Comment: Commenters requested that this section be expanded to require that access to records be given in no case less than five days prior to meetings to develop individualized education programs or any hearing and to permit authorized representatives of the parent to inspect the record. A commenter felt the 45-day outside time limitation could be misinterpreted to mean an agency need not comply at all after 45 days from the date of the request.

Response: Language has been added to make it clear that an agency must comply with a request for access before any meeting regarding an individualized education program. This will help insure that interested parents are able to familiarize themselves with their child's records prior to any meeting and be able to participate more knowledgeably. The prohibition against unnecessary delay places an obligation on the agency to make the records available in a timely manner so that the Office of Education does not believe it is necessary to specify a specific time limitation. Section 121a.562 has been amended to give parents the right to have an authorized representative inspect their child's education records.

The 45-day time limitation is not subject to the misinterpretation the commenter fears. This language is from the Family Educational Rights and Privacy Act, section 438 of the General Education Provisions Act (specifically section 432(a)(1)(A)), to which these regulations are tied (by statute).

FEES (§ 121a.566)

Comment: A commenter felt the first copy of a record should be given free upon request from the parents.

Response: No change has been made. The prohibition against charging a fee if it would effectively prevent the parents from inspecting and reviewing the record is based on a requirement in the Family Educational Rights and Privacy Act, to which these regulations are limited by statute (section 612

(2) (C)). Agencies may of course adopt policies of making copies available free of charge and are encouraged to do so.

HEARING PROCEDURES (§ 121a.570)

Comment: A commenter requested clarification of who conducts a hearing.

Response: The section states that the procedures under § 99.22 (the hearing procedures in the regulations for the Family Educational Rights and Privacy Act) be used. Section 99.22(b) states the hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

CONSENT (§ 121a.571)

Comment: Commenters requested that "advanced students," "persons acting as practicum advisors," and researchers be given access to records without consent.

Response: No change has been made. The Family Educational Rights and Privacy Act specifically lists parties and conditions where records may be released without parental consent.

SAFEGUARDS (§ 121a.572)

Comment: A commenter requested a list of positions rather than a list of names of employees who may have access to personally identifiable information.

Response: The requirement has been modified to require a list of names and positions to more fully inform parents and the public of the categories of individuals given access to data as well as the specific individuals who may have access.

DESTRUCTION OF INFORMATION (§ 121a.573)

Comment: A number of commenters were concerned about the destruction requirements. The principle concern was that detailed records might be needed by the handicapped individuals to show proof of need for further services from other agencies. One recommendation was that the parent and child be notified of the existence of the records at the time of graduation and informed that they would be destroyed only upon request of the parent or child. Another commenter suggested that records be maintained, but that parents be given the option to have them destroyed.

Response: The requirement has been revised to permit the parents to request that the information be destroyed and to require the public agency to inform the parents of the destruction option and their right to have the records destroyed upon request. The notice would normally be given at the time a child graduates or otherwise leaves the agency. The purpose of the destruction option is to insure that nonessential records about a child's behavior, performance, and abilities, which may possibly by stigmatizing and are highly personal, are not kept after they are no longer needed for educational purposes. Destruction of these records is the best protection against improper or unauthorized disclosures. However, the handicapped child or his or her parents may need certain records for other purposes (such as proof of eligibility for benefits).

Comment: Commenters asked that notice be given to a child who has reached the age of majority.

Response: No change has been made. Section 121a.574 requires the State educational agency to have policies and procedures regarding children's privacy rights. Where education records are maintained by an agency covered under the Family Educational Rights and Privacy Act, these rights must include transfer of the rights of parents to the child when he or she reaches 18 or the postsecondary education level.

Other Changes: The regulations have been revised to make it clear that the records covered under this Act are the same as the type of records covered under the Family Educational Rights and Privacy Act. Consistency in coverage is necessary to avoid undue administrative burdens on public agencies covered by both laws.

OFFICE OF EDUCATION PROCEDURES

General: The requirements in these sections largely repeated the statute. Perhaps for this reason, few comments were received on the Office of Education procedures.

WAIVER OF REQUIREMENT REGARDING SUPPLEMENTING AND SUPPLANTING WITH PART B FUNDS (§ 121a.589)

Comment: A commenter requested that the special study to determine if a waiver of the requirement should be granted include a review of whether grievance procedures are operational. Other commenters disagreed on the need for this study.

Response: A requirement has been added to have the study cover the adequacy of the State's due process procedures, as this is an important part of insuring that grievances are heard and to determine if parents and other parties are satisfied with the adequacy of the State's programs for handicapped children.

WITHHOLDING PAYMENTS (§ 121a.590)

Comment: Commenters asked for definitions of "substantinl compliance" and "failure to comply." Commenters also urged that the Office of Education, the Office for Civil Rights, and Departmental audit officials apply the same criteria.

Response: No change has been made. The Office of Education believes these terms will have to be defined on a case-by-case basis.

The Office of Education and the Office for Civil Rights will coordinate and cooperate in enforcing requirements under this Part and Part 84 (the regulations for section 504 of the Rehabilitation Act of 1973) where identical requirements are involved. The Office of Education will make every effort to insure that auditing officials understand and apply any criteria used by program officials.

SUBPART F—STATE ADMINISTRATION

This subpart has been expanded with requirements set out under the major headings: State Educational Agency Responsibilities, Use of Funds, and State Advisory Panel.

STATE EDUCATIONAL AGENCY RESPONSIBILITIES

Provisions on State educational agency responsibilities have been redrafted (and relocated from proposed section 121a.34) in response to comments, to better summa[illegible] general administrative and supervisory [illegible]sponsibilities in section 612(6) and other sections of the Act. A section on complaint procedures, which was included in previous regulations for Part B (prior section 121a.14) and inadvertently not included in the proposed regulations has been added.

Comment: Commenters requested addition of a new section on State educational agencies' responsibilities for monitoring, evaluation, and enforcement activities to insure compliance throughout the State with the requirements of this part. The commenters made specific suggestions for implementing such a section, including collection of data, conduct of on-site visits, audit of fund utilization, comparison of written individualized education programs with programs actually provided, meetings with parents and parent groups, public hearings, development of detailed criteria for evaluating program quality and effectiveness, and detailed procedures for enforcing requirements against noncomplying agencies.

Response: A new section has been added to require each State educational agency to develop procedures and specific timelines for monitoring and evaluating public agencies involved in the education of handicapped children. These are minimal requirements. Adoption of the other suggestions made by the commenters is encouraged but not required.

ALLOWABLE COSTS (§ 121a.621)

Comment: A number of commenters requested that the limitation on State administrative funds be raised and that provisions be added to allow local educational agencies to use funds for administrative costs.

Response: No change has been made on the State limit as it is a statutory limitation.

Comment: Commenters requested that the regulations require each State educational agency to use its funds for specific purposes. One recommendaiton was that ten percent of the administrative funds be used to train persons in local communities to assist and represent parents and to prepare and disseminate to parents information about their rights under these regulations. Another was that they be used to disseminate instructional material.

Response: No change has been made. The Office of Education does not believe it is appropriate to dictate to States how to use their limited administrative funds.

STATE ADVISORY PANEL

ESTABLISHMENT (§ 121a.650)

Comment: One commenter recommended that local panels be required.

Response: No change has been made. The statute only requires a State advisory panel. A State may, of course, decide to establish local panels.

MEMBERSHIP (§ 121a.651)

Comment: A substantial number of commenters requested additions to the list of representatives to be included on the panel, including professional groups, legal advocacy groups, and employees of State and local agencies. Some commenters recommended that handicapped individuals or their parents make up specific percentages of the panel.

Response: A provision has been added to make it clear that a State may expand the advisory panel to include additional persons in the groups listed (which are statutory) and representatives of other groups. The Office of Education does not believe it is appropriate to prescribe specific percentages, as the States should have some discretion to determine the proper mix of representatives. A comment has been added to indicate factors a State may consider in determining balanced membership of the panel.

ADVISORY FUNCTIONS AND ADVISORY PANEL PROCEDURES (§§ 121a.652—121a.653)

Comment: Commenters recommended that the regulations indicate that the panel must comment publicly on the State annual program plan as well as on any rules and regulations regarding education of handicapped children, review annual evaluations, and act as ombudspersons to hear complaints.

Response: A change has been made to require the panel to comment on the annual program plan. The annual program plan is an extremely important document and this addition makes it clear that the advisory panel must be involved in reviewing it. The other recommendations are legitimate activities but not ones the Federal government believes should be required by these regulations at this time.

Comment: Commenters requested that the regulations provide that panel members be reimbursed for reasonable and necessary expenses for attending meetings and performing duties.

Response: This change has been made. It is reasonable to require reimbursement for expenses so that persons will be able to participate without financial sacrifice.

SUBPART G—ALLOCATIONS OF FUNDS; REPORTS

ALLOCATIONS

This major section of Subpart G is entirely statutory; therefore, there are no comments of substance on which to respond.

REPORTS—ANNUAL REPORT OF CHILDREN SERVED (§§ 121a.750–121a.754)

The following comments were received regarding the annual report by the States of the number of children receiving special education and related services. This report is the basis for each State's allocation of funds under Part B, and serves as a mechanism for the Commissioner to meet some of his reporting requirements to Congress under section 618 of the Act. Some commenters recommended changes that would require amendment of the Act. These have not been summarized except where further explanation seemed to be useful.

AMOUNT OF INFORMATION REQUIRED IN THE REPORT

Comment: Commenters varied in their views on what information should be included in the report. It was suggested that additional information be collected for compliance purposes. Objections were made to the requirement for reporting information by disability category, and for reporting the 0-2 year old population. On the other hand, some commenters recommended that additional categories be added to the report, particularly for deaf-blind children and for multihandicapped children.

Response: Two categories of handicapped children have been added to the report—one for multihandicapped children and one for deaf-blind children. These terms are defined in section 121a.5 of Subpart A. No other changes have been made on the amount of information to be reported.

The additional categories should help to insure that no handicapped child is counted more than once, since the States will not have to decide in which of two or more disability categories to count a multihandicapped child. The changes conform to existing reporting requirements used by the States.

The annual report of children served is not a compliance document. It is only used to determine each State's allocation and to assist the Commissioner in meeting his reporting requirements to the Congress under section 618. Under section 611 of the Act, allocations are based on the number of handicapped children in each State receiving special education and related services. Compliance with requirements such as "least restrictive environment" will be achieved through other mechanisms, including the State's annual program plan, the local educational agency's application, and monitoring by the State educational agency and the Office of Education.

As explained in the preamble to the proposed rules published in the FEDERAL REGISTER on September 8, 1976, the report requirements are the minimum needed by the Commissioner to carry out the Act. (See 41 FR 37814.) While the Commissioner is concerned about the possible harmful effects of "labeling" children, the Act requires that the Commissioner report a substantial amount of information, to Congress by disability category. For this reason, and for the other reasons stated in the September 8, 1976, FEDERAL REGISTER, there appears to be no workable alternative to retaining the categories in the States' annual reports. The various disability categories, as well as the requirements to use them in the Commissioner's reports to the Congress, are statutory.

WHO MAY BE COUNTED

Comment: Commenters disagreed as to whether handicapped children should be counted if their special education is paid for solely from private sources or solely from Federal funds (such as children living on military bases). Some thought that only publicly-funded special education should qualify, while others argued that since all children have a right to a free appropriate public education the source of funding (other than the parent) should not matter.

Response: Section 121a.753 has been amended to provide that handicapped children (including such children in Head Start or other preschool programs) may be counted only if they (1) are enrolled in a school or program which is operated or supported by a public agency, and (2) receive special education that meets State standards.

A State may not count a child whose special education is paid for solely by the Federal government, unless the child is in one of the age groups 3-5 or 18-21, and there are no local or State funds available for nonhandicapped children in that age group.

Children funded solely by the Federal government would include Indian children whose special education is paid for solely by the Federal government, as well as children on military bases whose education is paid for solely with Federal funds. This rule is consistent with the requirement that a free appropriate public education (FAPE) be made available by the State to each handicapped child. Parents are not required to take advantage of FAPE. If they choose to educate their child outside of the public school system, even though FAPE is available, the State has discharged its responsibility. However, by the same token, the child should not be counted by the State for its allocation if the child is not being provided special education at public expense. The same reasoning applies to Indian children and other children who receive their special education from the Federal government. The rule should serve as an encouragement to States to provide services to all handicapped children, however, since any child provided special education from State or local funds may be counted.

Comment: Two other provisions in the regulations were objected to by commenters. The first of these provided that handicapped children "enrolled" in schools to receive special education could be counted as receiving special education. These commenters felt that enrollment did not guarantee actual receipt of services. The second provision stated, in essence, that a child who receives special education may be counted, but not a child who receives only "related services." This was viewed as an overly restrictive reading of the Act.

Response: No change has been made in the regulations. While no system is perfect, enrollment is a legitimate way of determining the number of handicapped children receiving special education on October 1 and on February 1, the two dates on which the Act requires the count of children served. It would not be practical to make an actual head count of children in classrooms and other facilities where services are provided.

With respect to children who only receive "related services," this is governed by statutory language. "Related services" are only those "required to assist a handicapped child to benefit from special education." (Section 602(17) of the Act.) If a child does not need special education, there can be no "related services," as that term is defined in the Act. However, section 121a.14 permits a State to define certain services as "special education," if those services are "specially designed instruction to meet the unique needs of a handicapped child." (This is taken from the definition of "special education" in section 602(16) of the Act.)

REALLOCATION OF LOCAL EDUCATIONAL AGENCY FUNDS (§ 121a.708)

Comment: Commenters requested criteria be added for when funds may be reallocated.

Response: No criteria have been added as determinations will be made on a case-by-case basis.

APPENDIX B—INDEX TO PART 121a

ADMINISTRATION

See: Monitoring.
Annual program plan requirements—§§ 121a.112; 121a.134; 121a.138; 121a.141; 121a.142; 121a.145.
Certification of State authority—§ 121a.112.
Direct Service by State educational agency—§ 121a.360.
Local application requirements—§§ 121a.228; 121a.236; 121a.240.
Local education agency definition—§ 121a.8.
State administration—Subpart F.

ADVISORY PANEL (STATE)

Annual program plan requirement—§ 121a.147.
General requirements—§§ 121a.650–121a.653.

ALLOCATIONS

Annual program plan condition of assistance—§ 121a.110.
Application by local agency condition of assistance—§ 121a.180.
Consolidated applications—§ 121a.191.
Count of children—See Reports.
Interior Department for Indian children—§ 121a.709.
Local agency allocation—See Reports.
  Formula—§§ 121a.705–121a.707.
  Reallocation—§ 121a.708.
  Use by the State—§ 121a.360.
Outlying areas—§ 121a.710.
Recovery for misclassified children—§ 121a.141.
State allocation:
  Formula—§§ 121a.701–121a.703; 121a.705–121a.706.
  Hold harmless—§ 121a.704.
  Use for administration—§§ 121a.620–121a.621.
Use of—See other headings.
Withholding—See: Hearings.
  From the local agency—§ 121a.194.
  From the State—§§ 121a.590–121a.593.

ANNUAL PROGRAM PLAN

Approval; disapproval—§ 121a.113.
Certifications—§ 121a.112.
Condition of assistance to State—§ 121a.110.
Contents—§§ 121a.111; 121a.112; 121a.120–121a.151.
Effective period—§ 121a.114.
General requirements—§§ 121a.110–121a.114.
Public participation—See: Public Participation.
Submission by State—§ 121a.110.

APPLICABILITY OF REGULATIONS—§ 121a.2

APPLICATION BY LOCAL AGENCY

Annual program plan requirement—§ 121a.144.
Approval or disapproval by State educational agency—§§ 121a.193; 121a.360.

Second priority children—amendment of application—§ 121a.324.
Submission by local agency—§ 121a.180.
Condition of assistance to local agency—§ 121a.180.
Consolidated application—§§ 121a.190–121a.192.
Content—§§ 121a.220–121a.240.
Excess costs—See: Excess Costs.
Public participation—See Public Participation.

AUDITS

See: Monitoring.

COMPLAINTS

State educational agency procedures—§ 121a.602.
See: Hearings.

COMPARABLE SERVICES

Local application requirement—§ 121a.231.

CONSENT

Defined—§ 121a.500.
Disclosure of information—§ 121a.571.
Initial placement—§ 121a.504(b).
Placement status during a proceeding—§ 121a.513.
Preplacement evaluation of child—§ 121a.504(b).

CONFIDENTIALITY OF INFORMATION

Annual program plan requirement—§ 121a.129.
Definitions—§ 121a.560.
General requirements—§§ 121a.560–121a.572.
Local application requirements—§ 121a.221.

CONSOLIDATED APPLICATIONS

See: Application of local agency.

COUNT OF CHILDREN

Annual report of children served—§§ 121a.750–121a.754.
Allocations:
  State entitlement—§§ 121a.701–121a.702.
  Local educational agency entitlement—§ 121a.707.
Outlying areas entitlements—§ 121a.710.

DEFINITIONS—§§ 121a.4–121a.15

DUE PROCESS

See: Confidentiality of Information.
  Evaluation.
  Hearings.
  Notice.
Procedures for parents and children—§§ 121a.500–121a.514.

EDUCATION

See: Free Appropriate Public Education.
  Full Educational Opportunity Goal.
  Individualized Education Program.
  Personnel Development.
  Physical Education.
  Special Education.
  Related Services.

EVALUATION

Advisory panel function—§ 121a.652.
Annual program plan requirements—§§ 121a.128; 121a.133; 121a.146.
Education programs—§ 121a.146.
Handicapped children:
  Consent required for—§ 121a.504.
  Defined—§121a.500.
  Hearings—See Hearings.
  Independent educational evaluation—§ 121a.503.
  Information on achievement—§ 121a232.
  Notice required—§§ 121a.504–121a.505.
  Protection—§§ 121a.129, 121a.133, 121a.221, 121a.530–121a.534.
  State responsibility—§ 121a.128.
Hearing aids—§ 121a.303.
Individualized education programs—§ 121a.146.
Personnel development—§ 121a.386.
Private school children service needs—§ 121a.453.
State educational agency activities—§§ 121a.146; 121a.601.
Training—See: Personnel development, this heading.

EXCESS COSTS

Generally—§§ 121a.182–121a.186.
Local application requirement—§ 121a.229.
Not applicable to State educational agency—§ 121a.360.

FREE APPROPRIATE PUBLIC EDUCATION

See: Individualized Education Programs.
  Related Services.
  Special Education.
  Time Limits and Timetables.
Annual program plan requirements—§§121a.121–121a.122.
Defined—§ 121a.4.
Generally—§§ 121a.300–121a.303; 121a.307.
Initiation or change—See: Notice.
State practice exception—§ 121a.300.
State use of local agency's allocation—§ 121a.360.
Priorities—§§ 121a.320–121a.324.

FULL EDUCATIONAL OPPORTUNITY GOAL

Annual program plan requirements—§§ 121a.123–121a.126.
General requirements—§§ 121a.304–121a.306.
Local application requirements—§§ 121a.222–121a.223.

HANDICAPPED CHILDREN

Defined—§ 121a.5.

Rights

See: Confidentiality of Information.
  Due Process.
  Evaluation.
  Free Appropriate Public Education.
  Hearing.
  Identification, Location, Evaluation.
  Individualized Education Program.
  Least Restrictive Environment.
  Notice.
  Private School Children.
  Special Education.
  Related Services.

HEARINGS

Disapproval of annual program plan—§ 121a.113.
Disapproval of local application—§ 121a.194.
Office of Education procedures—§§ 121a.580–121a.593.
Parents and children:
  Identification/ evaluation, placement—§§ 121a.506–121a.514.
  Confidentiality of information—§§ 121a.568–121a.570.
Public hearings before adopting annual program plan—§§ 121a.280–121a.284.
Withholding payments from a State—§ 121a.590.

IDENTIFICATION, LOCATION, EVALUATION

See: Evaluations.
Annual program plan requirement—§ 121a.128.
Local application requirement—§ 121a.220.
Private school children—§ 121a.453.

INDIAN CHILDREN

Application from Secretary of Interior—§§ 121a.260–121a.263.
Count—§§ 121a.753.
Payments to Secretary of Interior—§ 121a.709.

INDIVIDUALIZED EDUCATION PROGRAM

Accountability—§ 121a.349.
Annual program plan requirement—§ 121a.130.
Content—§ 121a.346.
Defined—§ 121a.340.
Effective dates—§ 121a.342.
First priority children—§ 121a.322.
Free appropriate public education definition—§ 121a.4.
General requirements—§§ 121a.340–121a.349.
Least restrictive environment—§ 121a.552.
Local application requirement—§ 121a.235.
Meetings—§§ 121a.343–121a.345.
Parent participation—§ 121a.344.
Placement—§§ 121a.533; 121a.552.
Private school children—§§ 121a.347–121a.348; 121a.401.
Reevaluation—§ 121a.534.

LEAST RESTRICTIVE ENVIRONMENT

Annual program plan requirement—§ 121a.132.
General requirements—§§ 121a.550–121a.556.
Local application requirement—§ 121a.227.
Nature and location of State services—§ 121a.361.
Nonacademic services and settings—§§ 121a.306; 121a.553.
Physical education—§ 121a.307.
Placement decisions—§§ 121a.343; 121a.533.
Program options—§ 121a.305.

MATCHING—§ 121a.371

MONITORING

Annual program plan requirements—§§ 121a.128(b)(5); 121a.130(b)(2); 121a.135.
Auditing count of children served—§ 121a.754.
Confidentiality of information—§ 121.575.
Identification, location, evaluation—§ 121a.128(b)(5).
Individualized education programs—§ 121a.130(b)(2).
Least restrictive environment—§ 121a.556.
Private school children—§ 121a.402(a).
State educational agency responsibility—§ 121a.601.

NONDISCRIMINATION

Annual program requirement—§ 121a.150.
Evaluation materials and procedures—§ 121a.530.
Local application requirement—§ 121a.230.
Nonacademic services—§ 121a.306.
Private school children—§ 121a.458.
Program options—§ 121a.305.
Testing materials and procedures—§ 121a.530.

NOTICE

Confidentiality of information—§§ 121a.561, 121a.573.
Individualized education program meeting—§ 121a.345.
Intitiation or change of identification, evaluation, placement, or free appropriate public education—§§ 121a.504–121a.505.
Notice of opportunity for a hearing—See: Hearings.
Notice of procedural safeguards—§ 121a.505.
Public notice of withholding payments—§ 121a.592.

PERSONNEL DEVELOPMENT

Annual program plan requirement—§ 121a.139.
Comprehensive system of personnel development—§§ 121a.380–121a.387.
Included in State support services—§ 121a.370.
Least restrictive environment—§ 121a.555.
Local application requirement—§ 121a.224.
Personnel needs—§§ 121a.126; 121a.223.
Preservice training—§ 121a.321.

Trained personnel for evaluation materials—§ 121a.532.
Training regarding confidentiality of information—§ 121a.572.
Use of Part B funds for training—§§ 121a.321, 121a.322.

PHYSICAL EDUCATION

Included in special education—§ 121a.14.
Required—§ 121a.307.

PLACEMENTS

See: Evaluation.
  Least Restrictive Environment.
  Private schools.

PRIORITIES

See: Evaluation.
  Indentification, Location, Evaluation.
Annual program plan requirement—§ 121a.127.
Definitions:
  First priority children—§ 121a.320(a).
  Second priority children—§ 121a.320(b).
General requirements—§§ 121a.320–121a.324.
Local application requirement—§ 121a.225.
State direct and support services—§ 121a.370.

PRIVATE SCHOOL CHILDREN

Annual program plan requirement—§ 121a.140.
Confidentiality of information—§ 121a.560.
Cost of residential placement—§ 121a.302.
Handicapped children placed or referred by public agencies—§§ 121a.400–121a.403.
Handicapped children not placed or referred by public agencies—§§ 121a.450–121a.460.
Individualized education program—§§ 121a.347–121a.348.
Least restrictive environment—§ 121a.554.
Part B applicability to private schools—§ 121a.2.
Physical education—§ 121a.307.

PROCEDURAL SAFEGUARDS

See: Complaints.
  Consent.
  Hearings.
  Notice.
  Surrogate Parents.
Annual program plan requirements—§§ 121a.131; 121a.136.
Local application requirement—§ 121a.237.

PUBLIC PARTICIPATION

See: Hearings.
Annual program plan requirements—§§ 121a.120; 121a.137; 121a.280–121a.284.
Local application requirements—§§ 121a.226; 121a.234.
Secretary of Interior application—§ 121a.261.
State advisory panel—§§ 121a.650–121a.654.

RECORDS

See: Confidentiality of Information.
Annual program plan requirement—§ 121a.143.
Comparable services—§ 121a.231.
Count of children served—§ 121a.754.
Excess costs—§ 121a.183.
Individualized education programs—§ 121a.130.
Local application requirement—§ 121a.233.
Parents may examine—§ 121a.502; 121a.562.
Parents not participating in meetings—§ 121a.345.

RELATED SERVICES

See: Free Appropriate Public Education.
  Individualized Education Program.
Defined—§ 121a.13.

REPORTS

Annual report of children served—§§ 121a.750–121a.754.
Local application requirements—§§ 121a.232; 121a.233.
State advisory panel—§ 121a.653.

SPECIAL EDUCATION

See: Free Appropriate Public Education.
  Individualized Education Program.
Defined—§ 121a.14.

STATE ADVISORY PANEL

Annual program plan requirement—§ 121a.147.
General requirements—§§ 121a.650–121a.653.

STATE DIRECT AND SUPPORT SERVICES

Annual program plan requirement—§ 121a.151.
General requirements—§§ 121a.360–121a.372.

SUPPLANTING

Applicability to State educational agency—§ 121a.372.
Local application requirement—§ 121a.230.
Private schools—§ 121a.460.
Waiver of requirement—§ 121a.589.

SURROGATE PARENTS

Definition of parent—§ 121a.10.
Duty of public agency to assign—§ 121a.514.
Responsibilities—§ 121a.514.
Selection—§ 121a.514.

TESTING

See: Evaluation.

TIME LIMITS AND TIMETABLES

Annual program plan effective period—§ 121a.114.
Evaluation of educational programs—§ 121a.146.
Free appropriate public education—§§ 121a.122; 121a.300.
Full educational opportunity goal—§§ 121a.125; 121a.222.
Hearing decisions—§§ 121.512; 121a.583.
Individualized education programs—§§ 121a.342; 121a.343.
Public participation in the annual program plan—§ 121a.280–121a.284.
Reevaluation—§ 121a.534.
Report of children served—§ 121a.750–121a.754.
State monitoring of public agencies—§ 121a.601.
State review of hearing decision—§ 121a.512.

TRAINING

See: Personnel Development.

USE OF PART B FUNDS

Allocation formulas:
  Consolidated applications—§§ 121a.190–121a.191.
  Entitlements—§§ 121a.700–121a.710.
Annual program plan requirements—§§ 121a.146; 121a.149.
Department of the Interior (Indian children)—§ 121a.262.
Excess costs—§§ 121a.182–121a.186.
Local application requirement—§ 121a.238.
State and local educational agencies:
  Free appropriate public education—§§ 121a.301–121a.302.
  Full educational opportunity goal—§ 121a.304(b).
  Priorities—§§ 121a.320–121a.324.
  Private school children—§§ 121a.450–121a.460.
State educational agencies:
  Allowable costs—§ 121a.621.
  Federal funds for State administration—§ 121a.620.
  Matching—§ 121a.371.
  State advisory panel—§ 121a.652.
  Use of local allocation for direct services—§§ 121a.360–121a.361.
  Use of State educational agency allocation for direct and support services—§ 121a.370.
Supplanting—§§ 121a.230; 121a.372; 121a.589.
Training—See: Personnel Development.

5. A new Part 121m is added to read as follows:

PART 121m—INCENTIVE GRANTS

Sec.

121m. 1 Scope; purpose.
121m. 2 General provisions regulations.
121m. 3 Eligibility.
121m. 4 Application.
121m. 5 Application contents.
121m. 6 Amount of grant.
121m. 7 Participation by children not counted under Part B of the Act.
121m. 8 Excess costs.
121m. 9 Administration.
121m. 10 Annual evaluation report.

AUTHORITY: Sec. 619 of Pub. L. 91–230, as amended, 89 Stat. 793 (20 U.S.C. 1419), unless otherwise noted.

§ 121m.1 Scope; purpose.

(a) This part applies to assistance under section 619 of the Act.

(b) The Commissioner awards a grant to each State which provides special education and related services to handicapped children ages three, four, or five.

(c) The State shall use funds provided under this part to give special education and related services to handicapped children in the age groups named in paragraph (b) of this section.

(d) The terms "special education" and "related services" have the meanings defined in § 121a.12 and § 121a.13 of this chapter.

(20 U.S.C. 1419(c).)

§ 121m.2 General provisions regulations.

Assistance under this part is subject to the requirements in Parts 100, 100b, 100c, and 121 of this chapter (including definitions and fiscal, administrative, property management, and other matters).

(20 U.S.C. 1419.)

§ 121m.3 Eligibility.

A State is eligible to receive a grant if:

(a) The Commissioner has approved its annual program plan under Part 121a of this chapter; and

(b) The State provides special education and related services to any handicapped children aged three, four, or five.

(20 U.S.C. 1419(a).)

§ 121m.4 Application.

To receive funds under this part, a State must submit an application to the Commissioner through its State educational agency.

(20 U.S.C. 1419(b).)

§ 121m.5 Application contents.

An application must include the following material:

(a) A description of the State's goals and objectives for meeting the educational needs of handicapped children ages three through five. These goals and objectives must be consistent with the State's full educational opportunity goal under § 121a.123 of this chapter.

(b) A description of the objectives to be supported by the grant in sufficient detail to determine what will be achieved with the grant.

(c) A description of the activities to be supported by the grant. The activities must be related to the objectives under paragraph (b) of this section and must be described in sufficient detail to determine how the grant will be used.

(d) A description of the impact the proposed activities will have on handicapped children ages three through five. This description must include evidence that the proposed activities are of sufficient size, scope, and quality to warrant the amount of the expenditure. The application must indicate the number of children to be served and the number of handicapped children who will be benefitted indirectly. If children are to be benefitted indirectly, there must be a rationale that demonstrates the benefit.

(e) The number of local educational agencies or intermediate educational units, and the number and names of other agencies which will provide contractual services under the grant, the activities they will carry out, and the reasons for selecting these agencies.

(f) The dollar amounts that will be spent for each major activity described.

(g) A description of the procedures the State will use to evaluate the extent to which the activities met the objectives described under paragraph (b) of this section.

(20 U.S.C. 1419(b).)

§ 121m.6 Amount of grant.

(a) The amount of a grant is $300 multiplied by the average number of children ages three through five counted during the current school year under §§ 121a.750–121a.754 of this chapter.

(b) If appropriated funds are less than enough to pay in full the grants under this part, the amount of each grant is ratably reduced.

(20 U.S.C. 1419(a), (d).)

§ 121m.7 Allowable expenditures.

(a) The State educational agency may use funds under this part to give special education and related services to handicapped children ages three through five who are not counted under §§ 121a.750–121a.754 of this chapter if the State educational agency insures that those children have all of the rights afforded under part 121a of this chapter.

(b) The State educational agency may use up to five percent of its grant for the costs of administering the funds provided under this part.

(20 U.S.C. 1419(c).)

Comment. In carrying out the provisions of this part some activities are considered particularly appropriate for the use of these funds: (1) Providing parents with child development information; (2) assisting parents in the understanding of the special needs of their handicapped child; (3) providing parent counseling and parent training, where appropriate, to enable parents to work more effectively with their children; (4) providing essential diagnosis and assessment; (5) providing transportation essential to the delivery of services; (6) providing speech therapy, occupational therapy, or physical therapy.

§ 121m.8 Excess costs.

(a) If local or State funds are available to pay for the education of nonhandicapped children of the same age as the handicapped children served with funds under this part, funds equal to that amount must also be made available for these handicapped children.

(b) If no local or State funds are available for nonhandicapped children of the same age, funds under this part may be used to pay for all of the costs directly attributable to the education of the handicapped children.

(20 U.S.C. 1419(c).)

§ 121m.9 Administration.

(a) The State educational agency shall administer the funds provided under this part.

(b) The State educational agency may use the funds itself, or may contract with local educational agencies, intermediate educational units, or other agencies.

(20 U.S.C. 1419(a).)

§ 121m.10 Annual evaluation report.

(a) Within 90 days after the end of the grant period, the State educational agency shall submit a report to the Commissioner on the activities carried out under this part during that period.

(b) The report must contain:

(1) The results of the evaluation under § 121m.5(g), and

(2) In brief narrative form, the impact that these funds have had on the State's educational services to handicapped children ages three, four, and five.

(20 U.S.C. 1419(c).)

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Commonwealth of Pennsylvania
STATE BOARD OF EDUCATION

REGULATIONS
OF THE
STATE BOARD OF EDUCATION OF PENNSYLVANIA

CHAPTER 13
SPECIAL EDUCATION

(Chapter revised January 14, 1977; Section 13.32 amended May 13, 1977)

(Section 13.32 amended November 11, 1977)

General Provisions

Section 13.1. Definitions.
13.2. Purpose.
13.3. Standards.
13.4. Pupil attendance.
13.5. Experimental programs.
13.6. Educational plans.
13.7. Professional personnel.
13.8. Paraprofessional personnel.
13.9. Mainstreaming.

Specific Provisions for Exceptional School-aged Persons

a. Specific Provisions for Mentally and Physically Handicapped School-aged Persons

13.11. Program responsibility.
13.12. Placement in out-of-state institutions.
13.13. Intermediate units or school district schools.
13.14. Approved private schools.
13.15. Course completion, diplomas and certificates.
13.16. Curricula.

b. Specific Provisions for Gifted and Talented School-aged Persons

13.21. Program responsibility.
13.22. Curricula.
13.23. Cooperative programs.

Due Process Procedures

Section 13.31. Opportunity for due process procedures.
13.32. School district initiated due process procedures.
13.33. Parent initiated due process procedures.

13.41. (Reserved)
13.42. (Reserved)
13.43. (Reserved)

13.51. (Reserved)
13.52. (Reserved)
13.53. (Reserved)
13.54. (Reserved)

Due Process Hearings

13.61. (Reserved)
13.62. Right to education.

Authority

The provisions of this Chapter 13 issued under act of March 10, 1949, P.L. 30, § 501, 925, 1001-1002, 1052, 1054-57, 1059-1060, 1066-1068, 1142, 1146, 1162, 1326-1330(2), 1371-1382, 1401-1422, 2509-2510.1 and 2541 (24 P.S. §5-502, 9-925, 10-1001-1002, 10-1052, 10-1054-1057, 10-1059-1060, 10-1066-1068, 11-1142, 11-1146, 11-1162, 13-1326-1330(2), 13-1371-1382, 14-1401-1422, 25-2509-2510.1, and 25-2541).

PART I - GENERAL PROVISIONS

§13.1. Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Agency - Any intermediate unit, public school district or private school operating approved programs and services for the education of exceptional persons.

Appropriate program - A program of education and/or training for exceptional school-aged persons which meets their individual needs as agreed to by a parent, school district and/or intermediate unit personnel; or as ordered by a hearing officer; or upon appeal as ordered by the secretary of education.

Approved private school - A private school licensed by the State Board of Private Academic Schools where the specific special education program for certain exceptional handicapped persons is approved by the secretary of education and is thereby eligible to receive payments for tuition or tuition and maintenance from school district and/or Commonwealth funds.

Change in educational status - Any assignment or re-assignment based on the evidence that the person is exceptional, or thought to be exceptional to one of the following educational assignments; Regular Education, Special Education, or to no assignment, or from one type of special education to another.

Exceptional persons - Persons of school-age who deviate from the average in physical, mental, emotional or social characteristics to such an extent that they require special educational programs, facilities or services and shall include all school-aged persons in detention homes and state schools and hospitals.

Handicapped school-aged persons -

(a) Mentally handicapped persons who are educable mentally retarded, trainable mentally retarded, severely and profoundly mentally retarded and socially and emotionally disturbed.

(b) Physically handicapped persons who are physically handicapped, brain damaged, learning disabled, speech or language impaired, visually handicapped and hearing impaired.

(c) Multi-handicapped persons who have two or more severe handicaps as defined in (a) and (b) of this section.

Gifted and talented school-aged persons - Those who in accordance with criteria prescribed in standards developed by the secretary of education, have outstanding intellectual and/or creative ability, the development of which requires special activities or services not ordinarily provided to regular children by local educational agencies.

Detained school-aged persons - All persons placed in detention homes.

Mainstreaming - An educational process of maintaining or returning exceptional persons who can best profit from such placement, to the regular education classroom, with any needed supportive services being provided in accordance with the nature of the placement.

Parent - This term shall include the term "guardian" and the plural of each where applicable.

Persons of school age - Those persons age six to 21 and those persons below the age of six who are of the age at which regular education programs are provided in their school district of residence.

Plan - The plan for special education required by Section 1372 of the Public School Code of 1949 (24 P.S. §13-1372), to insure that all exceptional persons are identified and provided education and/or training appropriate to their needs.

Public school programs and services for exceptional persons - Those special educational programs and services conducted by an intermediate unit or school district.

Regular education - Education other than special education.

Special education - A basic education program adjusted to meet the educational needs of exceptional persons.

§13.2. Purpose.

(a) The general provisions of this Chapter shall provide the basis for early identification and evaluation of all exceptional persons and for planning, developing, and operating special education programs and services. It shall be the policy of the Board, through the Secretary of Education to provide exceptional school-aged persons with quality special education programs and services which will ultimately enable them to participate as fully as possible in appropriate activities of daily living.

(b) Non-discriminatory testing - All agencies shall insure that testing and evaluation materials and procedures used in classifying exceptional persons will be selected, administered, and interpreted so as not to be racially or culturally discriminatory.

(c) Whenever the percentage of persons from any identifiable group (racial or ethnic) assigned to special education programs is significantly disproportionate to the distribution of that group in the school district or intermediate unit; the Department of Education shall so notify the school district or intermediate unit. To maintain the assignments the intermediate unit or school district must then show evidence that the assignments are justified and the disproportion is necessary to promote a compelling education interest of the persons affected.

§13.3. Standards.

The Secretary shall establish standards for the education and/or training of all exceptional persons in the Commonwealth; consistent with the law and the provisions of this Chapter.

§13.4. Pupil attendance.

Criteria for attendance, admission, absences, and excuses of Chapter 11, Title 22 (relating to pupil attendance) shall apply to all approved programs and services for exceptional persons.

§13.5. Experimental programs.

The Secretary may grant exceptions to the provisions of Chapter 13 to meet certain unique programmatic needs of exceptional persons. Such exceptions will be evaluated annually by the Secretary and will be terminated at the Secretary's discretion.

§13.6. Educational plans.

(a) Each school district shall include in its long-range plan procedures for the education of all exceptional school-aged persons.

(b) Each intermediate unit shall prepare a comprehensive plan for the education of exceptional school-aged persons which includes the district plans, the intermediate unit plan and combination of the two plans. This plan shall include all programs and services available including welfare agencies, approved private schools and other private school and other private agencies.

(c) The Secretary shall prescribe the format and content of the intermediate unit and school district plans.

§13.7. Professional personnel.

Professional personnel shall consist of individuals responsible for identification of exceptional persons and for provision of special education programs and services in accordance with the Public School Code of 1949 (24 P.S. §1-101 et seq.) and the provisions of Chapter 13.

§13.8. Paraprofessional personnel.

(a) Paraprofessional personnel shall consist of individuals under the direct supervision of the professional personnel, described in §13.7 of Title 22 (relating to professional personnel).

(b) The duties and training of the paraprofessional staff shall be determined by the intermediate unit or school district.

§13.9. Mainstreaming.

(a) Intermediate units and school districts shall mainstream those exceptional persons who can profit by an appropriate program of education and/or training in a regular class.

(b) If mainstreaming is recommended, specific supportive services, including staff orientation, necessary for appropriate education and/or training of persons placed in the mainstream shall be provided in accordance with the nature of the placement.

SPECIFIC PROVISIONS FOR MENTALLY AND PHYSICALLY HANDICAPPED SCHOOL-AGED PERSONS

§13.11. Program responsibility.

(a) All handicapped school-aged persons identified shall be provided with an appropriate program of education and/or training including the right to due process procedures as set forth in §13.31 of this Title relating to Due Process Procedures to determine the appropriateness of the classification and program.

(b) The primary responsibility for providing an appropriate program of education and/or training shall be that of a school district. Where such school district board cannot provide an appropriate program effectively and efficiently it shall use the services of the intermediate unit. The services of approved private schools, state schools and out-of-state institutions may be used, as hereinafter provided, where intermediate unit boards and school district boards agree that they cannot provide services effectively and efficiently for handicapped school-aged persons.

(c) Intermediate units and school districts shall insure that handicapped school-aged persons are provided with an opportunity for placement in appropriate vocational education programs designed to meet their unique needs.

(d) The following priority order of educational placement for handicapped school-aged persons shall be followed except where a deviation is needed to meet the appropriate needs of the person or the purpose of these regulations.

(1) A regular class in a regular school with supporting services.

(2) A school district special education program in a regular school; including homebound instruction.

(3) A school district special education program in a special facility.

(4) An intermediate unit program in a regular school.

(5) An intermediate unit program in a special facility.

(6) An approved private school program.

(7) A state school program.

(8) An approved out-of-state program, subject to the requirements of §13.12, relating to placement in out-of-state institutions.

(9) An intermediate unit program of instruction in the home.

(e) If a handicapped school-aged person has been re-evaluated and is found to no longer have the exceptional characteristics that require special education programs and services; the intermediate unit or school district shall prepare an appropriate program for the person to return to the regular school. If at the end of one year, the individual demonstrates that the regular program is now appropriate all records and materials identifying the person as exceptional shall be placed in a confidential file and shall be released only upon permission of the parent or guardian.

§13.12. Placement in out-of-state institutions.

(a) The Secretary shall approve the placement of certain multi-handicapped school-aged persons in approved out-of-state institutions provided that:

(1) There is no appropriate program for placement of such multi-handicapped school-aged persons in the school districts, intermediate units, approved private schools in Pennsylvania, or state schools and

(2) The parent, school district superintendent and intermediate unit executive director agree that there is no appropriate placement in the Commonwealth.

(3) There is concurrence by the Secretary of Education with the decision of the school district superintendent and intermediate unit executive director.

(b) If an appropriate placement for such person has been identified within the Commonwealth, the Secretary may initiate action for the return of such person, and the person shall be returned to an approved program within the Commonwealth.

§13.13. Intermediate unit or school district schools.

(a) Special schools devoted exclusively to the education of handicapped school-aged persons may be established by the intermediate units or school districts upon approval by the Secretary.

(b) Approval for such schools shall only be granted after the school district or intermediate unit submits written documentation that there is no appropriate existing or projected regular or special classroom space available in the area.

(c) Special schools shall be separate facilities which have been designed to meet instructional needs of handicapped school-aged persons. To receive approval such facilities shall meet the following requirements:

(1) Conform to regulations on school buildings in Chapter 21, Title 22 (relating to school buildings).

(2) Be located in close proximity to a school where regular class programs are available to permit as much integration and participation in regular programs as is feasible and desirable.

(3) Include special construction devices and equipment essential to provide an improved learning environment in relation to the nature and degree of physical or mental condition.

(4) Adhere to a plan for special education which enhances the possibility of providing a high quality of special education programs and services.

(5) Receive approval of the Secretary that such a facility is consistent with an approved plan and only where integrated facilities are not feasible.

§13.14. Approved private schools.

(a) Approved private schools shall be recognized as a resource to the state school system in providing for certain handicapped school-aged persons.

(b) Approved private schools shall meet the following standards:

(1) Licensed or accredited by the appropriate state board or state-recognized accrediting agency.

(2) Approved in accordance with such standards and procedures as necessary to insure compliance with law and these regulations.

(3) Reapproved at least every three years by the Secretary.

(c) The Department shall furnish annually to each intermediate unit a listing of all approved private schools and the types of programs approved for each. Intermediate unit planning shall include provisions for use of approved private schools where appropriate to provide especially for multi-handicapped school-aged persons. Nothing in these regulations shall restrict the use of approved private schools to serving multi-handicapped school-aged persons solely.

(d) The Secretary may approve, as necessary, certain private schools to provide an appropriate educational program for persons in those areas of the state where such programs cannot be provided by the school district, intermediate unit or other state agency.

§13.15. Course completion, diplomas and certificates.

(a) Course completion

Satisfactory completion of special education courses for exceptional school-aged persons shall be determined by the special education teacher in consultation with the principal of the school, and the supervisor of Special Education.

(b) High school diploma

Each exceptional school-aged person except as set forth in §13.15(c) of Title 22 (relating to certificate) satisfactorily completing special education programs at the high school level shall be granted and issued a regular high school diploma by the district of residence in accordance with standards established by the Secretary.

(c) Certificate

Trainable and profoundly mentally retarded persons satisfactorily completing an approved special education program for the trainable shall be issued a certificate in accordance with standards established by the Secretary.

§13.16. Curricula.

(a) Curricula for mentally or physically handicapped school-aged persons shall be conducted in accordance with standards established by the Secretary and shall include provisions for:

(1) Admission, continuance, enrollment and pupil qualifications or eligibility, determined by the type and degree of mental or physical handicap.

(2) Facilities and materials, supplies and special equipment, determined by the type of mental or physical handicap, and

(3) Amount of supervision and special teaching determined by the type and degree of mental or physical handicap.

(b) Curricula determined by type and degree of mental or physical handicap shall provide for an orderly sequence of instruction to permit the development of learning skills compatible with age and ability levels of exceptional persons.

SPECIFIC PROVISIONS FOR GIFTED AND TALENTED SCHOOL-AGED PERSONS

§13.21. Program responsibility.

Effective July 1, 1976, the provisions of Part III Section §13.31 (et seq.) relating to due process procedures for exceptional or thought to be exceptional school-aged persons shall be applicable to all gifted and talented school-aged persons provided that if the school district or intermediate unit does not have the particular program as recommended by the hearing officer, full implementation of the hearing officer's decision may be stayed until the beginning of the 1977-78 school year.*

§13.22. Curricula.

Curricula for gifted and talented school-aged persons shall be conducted in accordance with standards established by the Secretary and shall include provisions for:

(1) Admission, continuance, enrollment and pupil qualifications or eligibility, determined by the type and degree of extraordinary mental abilities or talents.

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*As Amended May 14, 1976

(2) Facilities and materials, supplies and special equipment, determined by the type and degree of extraordinary mental abilities or talents.

(3) Amount of supervision and special teaching, determined by the type and degree of mental abilities or talents.

§13.23. Cooperative programs.

School districts may join in with other districts, intermediate units or the Department of Education in a cooperative arrangement to provide programs for gifted and talented school-aged persons.

PART III - DUE PROCESS PROCEDURES

§13.31. Opportunity for due process procedures.

(a) The due process procedures as stated in this section of the regulations shall be applicable to all exceptional or thought to be exceptional school-age persons.

(b) The parent of any school-age person shall upon presentation to the school district of written evidence that their child is an exceptional or thought to be exceptional person and receiving less than an appropriate program of education and/or training, have the right to request due process procedures.

(c) The educational assignment of every exceptional or thought to be exceptional person must be evaluated not less than every two years, or annually upon the parent's request, and upon such re-evaluation, notice and opportunity to request due process procedures shall be provided.

(d) No exceptional or thought to be exceptional school-aged person shall be subjected to a change in educational status without first informing the person and the parent about the opportunity for due process procedures.

(e) The provisions of this section shall also apply to any exceptional or thought to be exceptional school-aged person who has never had an educational assignment.

(f) Due process procedures shall follow the outlined course of events described below:

(1) Program Placement Conference. A parent conference shall be held for the purpose of a detailed explanation of a contemplated change in education or major modification of any exceptional or thought to be exceptional school-aged person's program.

(2) Formal due process hearing. Upon request of the parent, a due process hearing shall be held before a hearing officer who shall render a decision.

§13.32. School district initiated due process procedures.

The following procedures shall be completed when the school district initiates the due process procedure:

(1) When any exceptional or thought to be exceptional school-aged person is recommended for a change in educational status by a school district, intermediate unit or any school official, notice of the proposed action shall first be given to the person and the parent. If the parent desires, the parent may, in writing, indicate satisfaction with the recommendation and waive the parent conference.

(i) The notice shall inform the parent or guardian of the availability of various organizations, including the local chapter of the Pennsylvania Association for Retarded Citizens, to assist in connection with the hearing and the school district or intermediate unit involved shall provide the address and telephone number of such local organization in the notice.

(ii) The notice need contain only the address and telephone number of those additional organizations which register with the school district or its intermediate unit as being available to persons in that geographic area and indicating the type(s) or classification(s) of children on whose behalf they will render assistance. This information may be on a separate sheet, attached to the notice.

(iii) The notice shall inform the parent or guardian that his/her child, if mentally disabled, mentally retarded, or emotionally disturbed, is entitled under the Pennsylvania Mental Health and Mental Retardation Act of 1966 and the Pennsylvania Mental Health Procedures Act of 1976, to the services of a local MH-MR center for an independent medical, psychological and educational evaluation. The notice shall specify the name, address and telephone number of the MH-MR center in the parent's or guardian's catchment area.

(2) The notice shall inform the parent of the right to a placement conference with the school entity involved and of the right to a full hearing before the secretary of education or the secretary's designee on the proposed action, and shall also include the information set forth in paragraphs 9, 10, 15, 16, 17, 18, and 19 below.

(3) A program placement conference shall be initiated either at the request of the school or the request of the parent within ten days of the receipt of the notice.

(4) The parent may request complete evaluation by the school district or intermediate unit which shall be completed by the school district or intermediate unit prior to the program placement conference.

(5) Prior to said conference the parents shall receive by certified mail, addressee only, return receipt requested, all information pertaining to the conference including but not limited to documentation of the reasons for the change in educational status (i.e., test used, results, etc.), what change in educational status is being recommended and other alternatives that are available for the individual and the reasons why these alternatives were not recommended.

(6) If the parent does not agree with the school evaluation, they may secure an outside evaluation at their own expense prior to the program placement conference.

(7) The Chief School Administrator or his designee shall chair the conference. The conference shall include but not be limited to the guidance counselor, the evaluator(s) (to explain the tests and procedures), the person (when appropriate), the parent, and the evaluator(s) that conducted the testing for the parent.

(8) At the conference every effort shall be made to reach an amicable agreement keeping in mind the best interests of the individuals and in no way shall the conference take the place of the due process hearings provided by these regulations.

(9) If the conference does not result in an agreement as to assignment, the parent may request a due process hearing.

(i) When the parent indicates satisfaction with the placement at the conference, the parent may, within five days of the conference, and in writing, change this decision and request that a hearing be held. At the conference, the parent shall receive from the school district a form which is to be used for this purpose. There shall be no change of educational assignment during the five days.

(10) If a due process hearing is called for, it shall be scheduled not sooner than 15 days nor later than 30 days after receipt of the request in the Department of Education, provided, however, that upon showing good cause a reasonable extension of these times shall be granted at the request of the parent. The school entity must forward the request for a hearing to the Department within 10 days of the receipt of a parent's request.

(11) The hearing shall be held in the school district and at a place reasonably convenient to the parent of the person. At the option of the parent, the hearing may be held in the evening and such options shall be set forth in the form requesting the hearing.

(12) The hearing officer shall be assigned by the Secretary, or a designee, but shall not be an officer, employe or agent of any school district or intermediate unit in which the person resides.

(13) The hearing shall be an oral, personal hearing, and shall be public unless the parent specifies a closed hearing. If the parent requests an open hearing, the decision rendered in the case, and only the decision, shall be available to the public.

(14) The decision of the hearing officer shall be based solely upon the evidence presented at the hearing.

(15) The proposed change in educational status or modification for appropriateness shall be approved only if supported by substantial evidence on the whole record of the hearing. Introduction by the school district or intermediate unit of the official report recommending a change in educational assignment, provided a copy of such report was given to the parent at the time notice was given, shall discharge its burden of going forward with the evidence, thereby requiring the parent to introduce evidence as contemplated in paragraphs 17, 18 and 19 of this section in support of the parent's contention.

(16) A record of the hearing shall be made and shall be available to the parent or the parent's representative. The record may be discarded after three years.

(17) The parent of the person may be represented at the hearing by any person of the parent's choosing, including legal counsel.

(18) The parent or the parent's representative shall be given reasonable access prior to the hearing to all records of the intermediate unit or school district concerning the person, including any tests or report upon which the proposed action may be based. "Reasonable access" shall be in accord with the Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records under 22 Pennsylvania Code, §12.33, and shall include the right of the parent to receive copies of the child's records. The school district may charge a reasonable fee to cover the cost of said copies, provided that the fee does not effectively prevent the parents from exercising their right to have reasonable access to those records.

(19) The parent or the parent's representative shall have the right to compel the attendance of, and to question any witness testifying for the intermediate unit board, the school district board and any official, employer, or agent of the intermediate unit, school district, or the Department who may have evidence upon which the proposed action may be based.

(20) The parent shall have the right to present evidence and testimony, including expert medical, psychological, or educational testimony.

(21) No later than 20 days after the hearing, the hearing officer shall render a decision in writing which shall be accompanied by written findings of fact and conclusions of law and which shall be sent by certified mail, return receipt requested, to the parent and the parent's representative.

(22) There shall be no change in the person's educational status without prior notice and the opportunity to be heard as set forth herein, except that in extraordinary circumstances the Department upon written request by the school district or intermediate unit setting forth the reasons therefore and upon notice to the parent, may approve an interim change in educational assignment prior to the hearing, in which event the hearing will be held as promptly as possible after the interim change. The Department shall act upon any such request promptly and in any event within three days of its receipt.

(23) Any time limitation herein shall be construed and applied so as to do substantial justice and may be varied upon request and good cause shown.

(24) The decision of a hearing officer may be appealed to the secretary of education.

§13.33. Parent-initiated due process procedures.

The following procedures shall be completed when the parent initiates the due process procedures:

(1) Any parent who believes their school-aged person is any of the following:

(i) Appropriately classified as an exceptional person.

(ii) An exceptional person classified as non-exceptional.

(iii) A non-exceptional person classified as exceptional.

(iv) Receiving less than an appropriate program of education and/or training, may forward to the school district, written evidence which supports the parent's contentions.

(2) Upon receipt of the documents required by paragraph (1) of this section, the school district superintendent shall initiate, within 10 days, a program placement conference.

(3) The Chief School Administrator or his designee shall chair the conference. The conference shall include but not be limited to the guidance counselor, the evaluator(s) (to explain the tests and procedures), the person (when appropriate), the parent, and the evaluator(s) that conducted the testing.

(4) At the conference every effort shall be made to reach an amicable agreement keeping in mind the best interests of the individuals and in no way shall the parent conference take the place of the due process hearings provided by these regulations.

(5) The school district shall prepare written evidence supporting the appropriateness of the person's classification and the program in which the person is currently enrolled and make this available to the parent or the parent's representative.

(6) Upon conclusion of the conference(s) the parent may, if unsatisfied with the school district's explanation, request a due process hearing.

(7) The due process hearing, if requested, shall follow steps, procedures (g) through (24), Section 13.32 of this Chapter (relating to School District initiated due process).

§13.61. (Reserved.)

§13.62. Right to education.

Pursuant to the order issued in Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa. 1971), the Secretary, the Board, the School Districts, the Intermediate Units shall cease and desist from applying §§1304, 1318, 1326, 1330(2), 1371(1), 1372(3), 1375, and 1376 of the Public School Code of 1949 (24 P.S. §§13-1304, 13-1318, 13-1326, 13-1330(2), 13-1371(1), 13-1372(3), 13-1375 and 13-1376), except as follows:

(1) Section 1304 (14 P.S. §13-1304) means only that a school district may refuse to accept into or retain in the lowest grade of the regular primary school or the lowest regular primary class above the kindergarten level, any child who has attained the mental age of five years. Any child whose admission to regular primary school or to the lowest regular primary class above kindergarten is postponed, or who is not retained in such school or class, is entitled to immediate placement in a free public program of education and training pursuant to Sections 1371 - 1382 (24 P.S. §§13-1371 - 13-1382), which provide alternative programs of education and training for exceptional children.

(2) Section 1318 (24 P.S. §13-1318) means that the suspension of a mentally retarded child under the same circumstances as a typical child might amount to punishment for a ramification of the very disability which a public school program of education is attempting to remedy. To avoid such a result, it shall first be concluded that a suspension or expulsion pursuant to Section 1318 (24 P.S. §13-1318) is a change in educational assignment which would, except as provided in this section, require notice and a due process hearing.

(3) Acknowledging, however, that a disciplinary problem with a mentally retarded child may be so immediate or severe as to require summary action, the parties in *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania*, 334 F. Supp. 1257 (E.D. Pa., 1971) agreed to Amended Stipulation 3(V). Thus, in those cases which warrant immediate action, and after the approval of the State Director of Special Education, an interim change in the educational assignment, of a mentally retarded child, in the form of suspension, expulsion, or other placement, may be made so long as there is a due process hearing as promptly as possible after that interim change.

(4) Section 1326 (24 P.S. §13-1326) means only that the parents of a child have a compulsory duty, while the child is between eight and 17 years of age, to assure that child's attendance in a free public program of education and training. Furthermore, if a parent does not discharge the duty of compulsory attendance with regard to any mentally retarded child between eight and 17 years of age, then the Department shall take those steps necessary to compel the child's attendance pursuant to Section 1327 (24 P.S. §13-1327) and any compulsory attendance regulations.

(5) However, Section 1326 (24 P.S. §13-1326) does not limit the ages between which a child must be granted access to such a program, Section 1301 of the Public School Code of 1949 (24 P.S. §13-1301) requires that the Commonwealth provide a free public education to all children six to 21 years of age. Thus, no school district or intermediate unit may deny access to a free program of public education to any mentally retarded child age six to 21 years whose parents elect to enroll that child in such a program.

(6) Section 1330(2) (24 P.S. §13-1330(2)) means only that when a parent elects to voluntarily withdraw a child from public school attendance, that parent may be excused from liability under the compulsory attendance provision of §1326 (24 P.S. §13-1326) when that parent inquires the following:

(i) The approval of the local school board.

(ii) The approval of the Secretary.

(iii) A finding by an approved clinic or public school psychologist or psychological examiner, that the child is unable to profit from further public school attendance.

(7) Section 1371(1), (24 P.S. §13-1371(1)), means children aged six to 21. This phase also means all mentally retarded children who have reached the age less than six at which regular pre-school programs are made available to other children either by the Department through any of its instrumentalities, such as local school districts or intermediate units, or by the Department of Public Welfare, through any of its instrumentalities. This construction should insure that preschool programs are equally available in Pennsylvania to mentally retarded and typical children, less than six years of age.

(8) Section 1372(3) (24 P.S. §13-1372(3)) means that homebound instruction is one of the options available to a school district where placement in a regular public school class is not possible. For a given mentally retarded child homebound instruction may be the only appropriate method for providing the free public program of education and training to which that child is entitled, even though this is the least preferable type of educational program. Such instruction shall involve education and training for at least five hours a week. Pupils assigned to Homebound Instruction shall be re-evaluated not less than every three months with notice and opportunity for a hearing as set forth in §13.32 of this Title, (relating to notice and opportunity for a due process hearing.)

(9) Section 1375 (14 P.S. §13-1375) means that insofar as the Department of Public Welfare will "arrange for the care, training, and supervision" of a child certified to it, the Department of Public Welfare will provide a program of education and training appropriate to the individual capacities of that child. This section further means that when it is found, on the recommendation of a public school psychologist and upon the approval of the local board of school directors and the Secretary, as reviewed in the due process hearing contemplated by the Court's Order of June 18, 1971, that a mentally retarded child would benefit from placement in a program of education and training administered by the Department of Public Welfare than from any program of education and training administered by the Department, the child should be certified to the Department of Public Welfare for the timely placement in a program of education and training.

(10) Section 1376 (24 P.S. §13-1376) means the term "brain damage" as used in this section and as further defined in the Board of Education's "Criteria for Approval of Reimbursement" includes thereunder all mentally retarded persons. Accordingly, there should now be available to them tuition for day school and tuition maintenance for residential school up to the maximum sum available for day school or residential school, whichever provides the program of education and training more appropriate to the mentally retarded child's learning capacities.

The Department of Agriculture, Bureau of Plant Industry, finds:

(1) That public notice of intention to adopt the administrative regulations adopted by this order has been duly given pursuant to §§ 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) That the adoption of the regulations of the Department of Public Welfare, Bureau of Plant Industry in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

The Department of Agriculture, Bureau of Plant Industry, acting pursuant to the authorizing statute, orders:

(A) The regulations of the Department of Agriculture, Bureau of Plant Industry, 7 Pa. Code, are amended by adding Chapter 120 (relating to fruit tree improvement program) to read as set forth at 7 Pa. B. 2144, July 30, 1977.

(B) The Secretary of Agriculture shall submit this order and 7 Pa. B. 2144, July 30, 1977, to the Department of Justice for approval as to legality as required by law.

(C) The Secretary of Agriculture shall duly certify this order and 7 Pa. Code, July 30, 1977, and deposit the same with the Legislative Reference Bureau as required by law.

(D) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

By the Department of Agriculture
Bureau of Plant Industry

KENT D. SHELHAMER,
Secretary of Agriculture

[Pa. B. Doc. No. 77-1790. Filed September 23, 1977, 9:00 a.m.]

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

OFFICE OF BASIC EDUCATION

[22 PA. CODE CH. 341]

Standards for Special Education

September 22, 1977

The Department of Education, Office of Basic Education, by this order, adopts 22 Pa. Code Ch. 341 (relating to standards for special education).

Notice of proposed rule making was published at 7 Pa. B. 1100, on April 23, 1977.

The proposed regulations have been further amended to read as set forth in Annex A to this order.

The regulations hereby adopted are adopted pursuant to the authority contained in the act of May 9, 1949, (P. L. 1017) as amended (24 P. S. § 13-1371 *et seq.*) and 22 Pa. Code § 13.1 *et seq.*

The Office of Basic Education finds:

(1) That public notice of intention to adopt the administrative regulations adopted by this order has been duly given pursuant to §§ 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) That the adoption of the regulations of the Office of Basic Education in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

The Office of Basic Education, acting pursuant to the authorizing statute, orders:

(A) The regulations of the Department of Education, Office of Basic Education, 22 Pa. Code, are amended by adopting Chapter 341 (relating to Standards for Special Education) to read as set forth in Annex A to this order.

(B) The Commissioner of the Office of Basic Education shall submit this order and Annex A hereto to the Department of Justice for approval as to legality as required by law.

(C) The Commissioner of the Office of Basic Education shall duly certify this order and Annex A hereto and deposit the same with the Legislative Reference Bureau as required by law.

(D) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

By the Department of Education, Office of Basic Education

FRANK S. MANCHESTER,
Commissioner
Office of Basic Education

Annex A

TITLE 22. EDUCATION

PART XVI. STANDARDS

CHAPTER 341. STANDARDS FOR SPECIAL EDUCATION

TABLE OF CONTENTS

Sec.
341.1. Definitions.
341.11. Parent initiated identification.
341.12. School district identification.
341.13. Evaluation.
341.15. Individualized Education Program.
341.16. Individualized Education Program Conference
341.17. Minimum annual review.
341.18. Relation to hearing.
341.21. General rule.
341.22. Operating agent.
341.31. Plans.
341.32. Development of plans.
341.33. Content of plans.
341.35. Approval of plans.
341.51. Organization.
341.53. Grouping.
341.55. Curricula.
341.57. Personnel.
341.58. Instructional materials, equipment and supplies.
341.59. Facilities.
341.71. Special education budgets.

§ 341.1. Definitions.

The following words and phrases, when used in this chapter, shall have, unless the context clearly indicates otherwise, the following meanings:

Change in educational status—Any assignment or reassignment based on evidence that the person is exceptional or thought to be exceptional: the following educational assignments are included: regular education, special education, no assignment or a change from one type of special education to another; any change shall be in accordance with an Individualized Education Program.

Department—The Department of Education of the Commonwealth.

Exceptional persons—Those persons evaluated in accordance with this chapter as being hearing impaired, mentally gifted and talented, mentally retarded, physically handicapped, learning disabled, brain damaged, speech and language impaired, socially and emotionally disturbed, visually impaired, or severely multihandicapped. These terms are further defined as follows:

(i) *Brain damage*—A moderate to severe injury to the brain, as identified by a neurological examination, resulting in severe behavior and learning disorders. Persons whose behavior and learning disorders are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional factors, or environmental disadvantage are not brain injured. The term brain damage does not include the condition known as minimal brain disfunction.

(ii) *Hearing impaired*—A hearing loss ranging from mild, that is, hard of hearing, to profound, that is, deaf, which interferes with the development of the communication process and results in failure to achieve full educational potential. A person shall be assigned to a program for the hearing impaired when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that the evaluation includes a report by an audiologist and otologist.

(iii) *Learning disability*—A deficiency in the acquisition of basic learning skills, including but not limited to, the ability to reason, think, read, write, spell or do mathematical calculations, as identified by an educational and psychological evaluation. Persons who have learning disorders which are primarily the result of visual, hearing, or other handicaps, mental retardation, emotional factors, or environmental disadvantage are not learning disabled. The term learning disability does not exclude the possibility that a learning disabled person may also exhibit such conditions as brain damage or minimal brain disfunction. A person shall be assigned to a program for the learning disabled when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that the evaluation clearly indicates that the person can demonstrate average or above average intellectual functioning on an appropriate intelligence measure. The evaluation shall include an assessment of specific academic strengths and weaknesses.

(iv) *Mentally gifted*—Outstanding intellectual and creative ability the development of which requires special activities or services not ordinarily provided in the regular program. Persons shall be assigned to a program for the gifted when they have an IQ of 130 or higher. A limited number of persons with IQ scores lower than 130 may be admitted to gifted programs when other educational criteria in the profile of the person strongly indicate gifted ability.

(v) *Mentally retarded*—Impaired mental development which adversely affects the educational performance of a person. A mentally retarded person exhibits significantly impaired adaptive behavior in learning, maturation, or social adjustment as a result of subaverage intellectual functioning. The degree of retardation and the level of social and academic functioning, not deviant behavior patterns, shall be the factors in determining the individualized program. A person shall be assigned to a program for the mentally retarded when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that no person shall be assigned to a program for the:

(A) educable mentally retarded unless the IQ score of that person is lower than 80;

(B) trainable mentally retarded unless the IQ score of that person is lower than 35; or

(C) severely and profoundly mentally retarded unless the adaptive behavior of that person is so severely impaired that education programming is oriented to behaviors which may be considered absolutely basic to higher levels of skilled performance—individuals with an IQ score lower than 30 may be considered for these programs and shall be evaluated by a physician prior to assignment.

(vi) *Physically handicapped*—Orthopedic or other health impairments of sufficient magnitude to limit the classroom accommodation and educational performance of a person. A person shall be assigned to a program for the physically handicapped when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that the evaluation includes reports from a physician and a certified public school psychologist.

(vii) *Severely multihandicapped*—Persons who are diagnosed as having two or more of the following severe handicapping conditions required for assignment to approved private schools under § 171.23 of this title (relating to application for approved private school status):

(A) *Blind*—A visual handicap of a severe degree. Those persons in whom there is visual acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field so contracted that the widest diameter of such field subtends an angular distance no greater than 20 degrees.

(B) *Brain damage*—Those persons who manifest severe behavior and learning disorders resulting from a severe insult to the brain as identified by a neurological examination.

(C) *Cerebral palsy*—Those persons with severe bilateral, symmetrical, nonprogressive paralysis resulting from developmental defects in the brain or trauma at birth who cannot carry on independently the normal activities of daily living.

(D) *Deaf*—A hearing handicap of a severe degree. Those persons in whom the sense of hearing is nonfunctional for the ordinary purposes of life. This includes the congenitally and adventitiously deaf. The following represents hearing loss as defined by audiometer measurements: Severe hearing loss—60 db to 90 db; and Deaf—90 db or more in both ears.

(E) *Emotional disturbance*—Those persons who manifest a severe major affective psychosis which is characterized by a single disorder of mood, either extreme elation or depression, that dominates the mental life of the person and is responsible for whatever loss of contact they may have with their environment.

(F) *Muscular dystrophy*—Those persons who manifest a severe wasting away and atrophy of the muscles whereby they become nonambulatory, lose muscle power, and are unable to participate in normal activities of daily living.

(G) *Severely mentally retarded*—Those persons whose adaptive behavior is so severely impaired that educational programming is directed to behaviors that require closely supervised simple self-help and very simple work skills requiring full dependence upon others. This term is used to describe the degree of mental retardation present when intelligence testing is lower than an IQ of 25 as measured on individual psychological tests with no consideration of the standard error of measurement permitted. Those with such adaptive behavior and measured mental ability shall be considered for these programs and shall be evaluated by a physician prior to assignment.

(viii) *Socially and emotionally disturbed*—A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree: an inability to learn which cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings; a general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms, pains, or fears associated with personal or school problems. A person shall be assigned to a program for the socially and emotionally disturbed when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that the evaluation includes reports from a board-certified or approved psychiatrist. No person shall be assigned to a program for the socially and emotionally disturbed for disciplinary reasons alone. Socially and emotionally disturbed children shall be psychiatrically reevaluated every two years.

(ix) *Speech and Language Impaired* — Communication disorders of impaired language, voice, fluency, or articulation to such a degree that academic achievement is invariably affected and that the condition is significantly handicapping to the affected person. A person shall be assigned to a program for the speech and language impaired when the screening by a speech clinician and the Individualized Education Program indicate that such a program is appropriate. Where appropriate, an evaluation by a certified public school psychologist or physician shall be performed.

(x) *Talented*—Outstanding talent as identified by a team of educators and professionals competent in the areas of art, music, dance, photographic arts, or theater the development of which requires special activities or services not ordinarily provided in the regular program. A person identified as talented shall be eligible to attend the Governor's School for the Arts.

(xi) *Visually impaired*—A visual impairment which adversely affects the educational performance of the person. A person shall be assigned to a program for the visually impaired when the evaluation and Individualized Education Program indicate that such a program is appropriate: provided that the evaluation includes an examination by an eye specialist and a written report of the nature and degree of the visual impairment.

IQ score—An IQ score with consideration for a plus or minus five standard error of measurement as measured by an individual psychological test.

Notice—Written notice in the language or mode of communication normally used by the person to whom the notice is being given.

Parent—A parent or guardian, or an individual acting as a surrogate parent in the absence of a parent or guardian of any person of school age.

School-aged person—Persons aged six to 21 and persons younger than six who are of the age at which regular education programs are provided in their school district of residence.

Special education—A basic education program planned to meet the educational needs of exceptional persons.

Surrogate parent—A person appointed by the intermediate unit to act as the parent of a school-aged person when the parents are not known or unavailable or when the school-aged person is a ward of the State. The person appointed shall not be an employe of the State or local education agency involved in the education or care of the school-aged person.

§ 341.11. Parent initiated identification.

(a) *General rule.* Any parent who believes that his child is exceptional and is not receiving appropriate special education programming may request, in writing, an evaluation of the child.

(b) *Conference.* A conference shall be scheduled within ten days of receipt of the written request. The conference shall include, but shall not be limited to, the parent, the teacher of the person, and a supervisor of special education or principal. Any person the parent wishes to invite may attend. Prior to the conference, the school district shall prepare written evidence supporting the appropriateness of the present program of the person or a recommendation for a change in assignment provided that no such recommendation is made until after an evaluation of the person has been performed in accordance with this chapter. At the conference, every effort shall be made to reach an amicable agreement, keeping in mind the best interest of the individual. If a change in assignment is recommended, an Individualized Education Program shall be developed at the conference.

(c) *Hearing.* Upon conclusion of the conference, the parent, if dissatisfied with the results of the conference, may request a hearing. The hearing procedures shall be in accordance with § 13.32(5)-(23) of this title (relating to school district initiated due process procedures).

§ 341.12. School district identification.

(a) *Policy.* Each school district shall adopt a policy for the identification of school-aged persons who may be in need of special education programs or services.

(b) *Coordination.* The policy shall be coordinated with the intermediate unit.

(c) *Group screening.* The policy shall refer to those group screening instruments which may be used as the basis for referral for evaluation. A group screening instrument is a basic test administered to or a procedure used with all children in a school, for example, achievement tests administered to all students in a school or to all students of a certain grade level, speech and language screening instruments, and visual and hearing tests administered in accordance with Article 14 of the Public School Code of 1949 (24 P. S. §§ 1401-14-1422).

(d) *Referrals.* The policy shall include a system by which persons who may be in need of special education are referred by parents, teachers, school nurses, and other professional employes for evaluation. At the same time, the parent shall be informed in accordance with subsection (e) of this section that the person has been referred for evaluation.

(e) *Notice to parents.* The parents of any person referred for evaluation shall be informed in writing:

(1) that the person has been referred for evaluation;

(2) of the basis upon which the referral was made;

(3) that the parent has the right to inspect and review all relevant school records;

(4) of the procedures and specific types of tests which will be used in the evaluation and the approximate dates of such procedures;

(5) of the right of the parents to meet with a public school psychologist to discuss the referral and proposed evaluation procedures;

(6) of the right of the parents to object to the evaluation and request a hearing in accordance with § 13.32 of this title (relating to school district initiated due process procedure).

(7) of the right of the parents to give or withhold their consent to the evaluation.

(f) *Conference.* The notice required by subsection (e) of this section may be given to the parents at a conference.

§ 341.13. Evaluation.

(a) *General rule.* An evaluation must be conducted in accordance with this section prior to the assignment of any person to a special education program or service or prior to the denial of assignment if the parent requests assignment. A person may, however, be assigned to itinerant speech and language service in accordance with subsection (g)(2) of this section after identification in accordance with § 341.12(c) of this title (relating to school district identification). In each instance, except for speech and language impaired, an individual psychological examination shall be administered by a certified public school psychologist prior to assignment to a special education program. For speech and language impaired, a psychological evaluation may be administered by a certified public school psychologist.

(b) *Individualized Education Program.* An evaluation requires the analysis and investigation necessary to develop an Individualized Education Program appropriate for the person as required by § 341.15 of this title (relating to Individualized Education Program). There shall be no change in educational status until the Individualized Education Program has been developed.

(c) *Scope.* The nature of the individual behavioral and learning characteristics of the person thought to be exceptional shall determine the psychological, educational, and other assessment services to be used in the evaluation and the uniqueness in procedures or protocols which may be used; provided that persons thought to have a specific exceptionality shall be evaluated in accordance with the minimum requirements for that exceptionality as provided in § 341.1 of this title (relating to definitions).

(d) *Tests.* Tests and similar evaluation materials shall be:

(1) administered in the native language or mode of communication of the child, unless it is clearly not feasible to do so;

(2) selected and administered so that the test results accurately reflect the person's aptitude, achievement level, or whatever other factor the test purports to measure rather than the person's impaired sensory, manual, or speaking skills except where such skills are factors which the test purports to measure;

(3) professionally validated for the specific purpose for which they are to be used;

(4) administered by certified professional employes in accordance with the instructions provided by the producer of the test and sound professional practice; and

(5) selected and administered to assess specific areas of educational need and not merely a single general intelligence quotient.

(e) *Other information.* Information from sources other than ability or achievement tests, including information from the parents concerning the physical condition, sociocultural background, and adaptive behavior in home and school of the person, shall be considered in recommending assignments. No one test or type of test shall be used as the sole criterion for development of the Individualized Education Program.

(f) *Outside evaluation.* Reports and evaluations submitted by the person or parent shall be given full consideration by the school district in recommending assignments. No one test or type of test shall be used as the sole criterion [illegible] development of the Individualized Education Program.

(g) *Team.* All data collected under this section and the relevant school record of the person shall be reviewed and interpreted by a public school psychologist, the present teacher of the person, and a supervisor of special education or a school administrator or another person knowledgeable about the program and service options which may be appropriate for the person.

(1) If the review and interpretation results in a conclusion that the person is not exceptional, the parent shall be so notified in writing. The notice shall inform the parent of his right to:

(i) review all data collected on the child;

(ii) request a program placement conference in accordance with § 13.32 of this title (relating to school district initiated due process procedures); and

(iii) request a hearing on the recommendation in accordance with § 13.32 of this title (relating to school district initiated due process procedures).

(2) If the review and interpretation result in a recommendation to develop an Individualized Education Program, the parent shall be notified by letter that the school district:

(i) has identified the person as exceptional;

(ii) is recommending special education placement; and

(iii) shall arrange conference for parents to participate in the development of the Individualized Education Program.

§ 341.15. Individualized education program.

The Individualized Education Program for each person assigned to special education programs or services shall include:

(1) a statement of the present level of educational performance of the person;

(2) a statement of annual goals which describes the expected behaviors to be achieved through the implementation of the Individualized Education Program of the person;

(3) a statement of short-term instructional objectives;

(4) a statement of specific educational services to be provided to the child, including a description of all special education and related services required to meet the unique needs of the child, any special instructional media and materials to be provided, and the type of physical education program in which the child will participate;

(5) a description of the extent to which the child will be able to participate in regular education programs;

(6) the projected date for initiation and the anticipated duration of services; and

(7) appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the instructional objectives are being achieved.

§ 341.16. Individualized Education Program Conference.

(a) *Conference.* The Individualized Education Program shall be developed in a conference by:

(1) a representative of the school district or intermediate unit who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the person;

(2) the teacher of the person—if the person is assigned to or is to be assigned to an approved private school, the private school teacher and any other representative of the private school;

(3) the parents of the person;

(4) where appropriate, the person; and

(5) any person the parents want to attend.

(b) *Parent participation.* Each school district shall take steps to ensure that the parents of the person are present at the conference or are afforded the opportunity to participate. The conference shall be scheduled at a mutually agreed upon time and place unless it is clearly not possible or practical.

(1) In cases where it is not possible or not practical for all participants to attend, other alternatives to ensure full participation must be attempted, including individual or conference telephone calls.

(2) The Individualized Education Program conference may be conducted without the parent in attendance only if there is sufficient documentation of attempts to arrange a mutually agreed upon time and place, such as detailed records of telephone calls made or attempted and the results of such calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the home or place of employment of the parents and the results of such visits.

(3) If a parent has a communication barrier, such as deafness or a primary language other than English, the local educational agency shall provide an interpreter or take whatever action is necessary to ensure that the parent understands the proceedings.

(c) *Time.*

(1) There shall be no change in educational status until the Individualized Education Program has been developed in accordance with this section.

(2) For exceptional children currently receiving special education programs or services, the Individualized Education Program Conference shall be conducted prior to the 1977-78 school year.

(d) *Notice.* Upon completion of the Individualized Education Program conference, the due process notice may be given or mailed to the parent in accordance with § 13.32 of this title.

§ 341.17. Minimum annual review.

(a) *Review and revision.* Each Individualized Education Program shall be reviewed at least annually and, if appropriate, revised in accordance with § 341.16 (relating to conference).

(b) *Reevaluation.* At least once every two years, the review or revision, or both, of the Individualized Education Program shall be based on an analysis of the documented cumulative record of the student by a team in accordance with § 341.13(g) of this title (relating to evaluation). The reevaluation may include administration of individual psychological tests administered by a certified public school psychologist and other clinical examinations if needed. Parental consent is not required for a reevaluation. A reevaluation may be conducted more frequently than once every two years, if such is deemed appropriate by the local educational agency.

§ 341.18. Relation to hearing.

(a) The Individualized Education Program is an education program developed jointly by the parents and school personnel. The Individualized Education Program may be revised periodically in accordance with § 341.17(a) of this title (relating to minimum annual review). If a change in educational status, special education program, or related services provided to the student is to be recommended by the local educational agency as a revision of the Individualized Education Program, the provisions of § 341.16 of this title (relating to Individualized Education Program conference) are to be followed, and subsequent notice and right to a hearing is to be provided in accordance with § 13.32 of this title (relating to school district initiated due process procedures). A parent may request a reevaluation of the student's identification and assignment annually in accordance with § 13.33 of this title (relating to parent initiated due process procedures):

(b) If a hearing is requested, the hearing shall be held to determine the specific kinds of programs and services appropriate for the person, based on the evaluation conducted in accordance with § 341.13 of this title (relating to evaluation) and any subsequent reevaluation that may have been conducted. The hearing officer shall, after the hearing, issue an opinion and order defining the assignment, program, and services in such specificity as the hearing officer deems necessary. An Individualized Education Program document shall then be developed jointly, in conformity with the decision of the hearing officer, by the parents, school personnel, and, where appropriate, the person, in accordance with § 341.16 of this title (relating to Individualized Education Program conference) in order to supply any component of the Individualized Educational Program not noted, ruled upon, or recommended by the hearing officer in the decision of the hearing officer. The conference shall be scheduled within ten days after the decision has been rendered.

§ 341.21. General rule.

Special education programs and services shall be organized to effectively and efficiently implement the Individualized Education Program. Regardless of the choice of administrative arrangement, provision shall be made for the maximum amount of appropriate integration and contact with regular education students.

§ 341.22. Operating agent.

(a) *Designation.* The operating agent for special education programs and services shall be designated in the provisions of § 341.31 of this title (relating to plans).

(1) *District operation.* Special education programs and services shall be developed and operated by a school district when the school district is able to provide effective and efficient programs, including adequate housing and supervision.

(2) *Intermediate unit operation.* Special education programs and services shall be developed and operated by the intermediate unit when the school district cannot effectively and efficiently support such programs and services.

(3) *Cooperative agreement.* To meet the needs of individual school-aged exceptional persons, a cooperative agreement may be developed among districts and intermediate units.

(4) *Approved private school.* To meet the needs of certain individual school-aged exceptional persons, an approved private school assignment shall be recommended and approved by district and intermediate unit professional staff whenever an appropriate placement cannot be provided within the local public schools solely because of the nature and incidence of the handicapping condition of the student. Whenever a school district and intermediate unit agree that the only source of an appropriate program of education for a school-aged person is in an approved private school, in accordance with the stated admission policy of the particular school, the recommendation and supporting evidence shall be forwarded to the Department for final approval in accordance with § 171.13 and 171.16 of this title (relating to assignment and reevaluation).

(b) *Powers and duties.* The operating agent shall determine the operational, organizational, and administrative procedures of the special education programs and services it operates subject to the provisions of the school laws, Part I of this title (relating to Board of Education), and this chapter.

§ 341.31. Plans.

Special education programs and services shall be administered in accordance with the intermediate unit plan for special education as set forth in section 1372(2) of the Public School Code of 1949 (24 P. S. § 13-1372(2)).

§ 341.32. Development of plans.

Each intermediate unit shall annually revise its plan in cooperation with its constituent school districts and, where appropriate, with approved private schools and other intermediate units.

(1) *School district plans.* Each school district shall develop and maintain a plan which specifies all special education programs and services to be district-operated and which designates those programs and services required from the intermediate unit. The plan shall also identify those regular education programs which may be used to implement Individualized Education Programs.

(2) *Intermediate unit plans.* School district plans shall be incorporated in the intermediate unit plan. Intermediate unit plans shall specify the programs and services to be operated by the intermediate unit and shall incorporate those programs and services operated by individual school districts including regular education programs which may be used to implement individualized Education Programs. The plan shall specify those programs and services required from approved private schools.

§ 341.33. Content of plans.

In addition to the description of programs and services and needs required in § 341.32 of this title (relating to development of plans), each intermediate unit plan shall include the following:

(1) A policy for the identification of all school-aged persons in need of special education programs and services in accordance with § 341.12 of this title (relating to parent initiated identification).

(2) A strategy to provide immediately an appropriate education to any person identified under paragraph (1) of this section above who is receiving no education.

(3) A strategy and timetable to develop special education programs and services for those identified under paragraph (1) of this section who are not receiving appropriate special education programs and services. Such strategy shall reflect the following priorities in accordance with the specific needs determined by the school district and the intermediate unit:

(i) Programs and services shall be provided for the more severely handicapped before programs are provided for the less severely handicapped and for the more gifted before the less gifted.

(ii) Programs and services shall be developed in accordance with a planned curriculum to provide a continuum of programs and services appropriate for the age and development of the student.

(iii) Programs and services shall be developed to provide a continuance of programs and services for appropriate student assignments in accordance with the priority order as provided in § 13.11 (d) of this title (relating to program responsibilities).

§ 341.34. (Reserved).

§ 341.35. Approval of plans.

(a) *General rule.* Intermediate unit plans for the operation of special education programs and services shall be submitted to the Department of Education, Division of Special Education, for approval. Plans shall be approved when the requirements of §§ 341.31 and 341.32 of this title (relating to plans and development of plans) are met.

(b) *Criteria.* To determine compliance with §§ 341.32 and 341.33 the Department will apply the following criteria:

(1) Based on expected incidence rates, the programs are adequate in quantity to meet the needs of all severely handicapped persons within the intermediate unit.

(2) Based on expected incidence rates, the programs are adequate in quantity and variety to meet the needs of persons of every exceptionality as defined in § 341.1 of this title (relating to definitions).

(3) Based on expected incidence rates, there is a full continuum of programs and services to permit the least restrictive assignment and the appropriate services in accordance with § 13.11(d) (relating to program responsibilities) and § 341.51 of this title (relating to organization).

(4) Based on the following table, programs are adequate to deliver quality special education services. The plan may justify deviation from the table by describing why deviation will not affect or will enhance the quality of the programs.

Constant Enrollment [ADM] by Organizational Patterns*

Program Category and/or Level	*Itinerant*	*Resource Rooms*	*Part-Time*	*Full-Time*
EMR Elementary	15-50	15-20	10-15	10-15
EMR Secondary	15-50	15-20	15-18	10-15
TMR Elementary	None	None	10-15	8-12
TMR Secondary	None	None	15-18	8-15
S & P Retarded	None	None	None	4-8
SED Elementary	15-50	15-20	10-15	6-12
SED Secondary	15-50	15-20	10-15	8-12
BI/LD Elementary	15-50	15-20	10-15	8-12
BI/LD Secondary	15-50	15-20	10-15	8-12
HI El./Sec.	15-50	5-15	6-10	5-8
SP&L El./Sec:	20-90**	None	None	[None] 5-8
PH El./Sec.	15-50	5-15	6-12	6-12
Detention El./Sec.	None	None	None	1-15
VH El./Sec.	15-50	5-15	9-15	5-12
Gifted Elementary	15-[50] 75	10-20	10-18	10-18
Gifted Secondary	15-[50] 75	10-20	10-18	10-18

*The teacher's register is to carry no less than the minimum CE [ADM] of any pattern in the *chart*.

**Sessions with the child for Speech and Language:

20 [ADM] *students* (3 sessions/student/week)
25 [ADM] *students* (4 sessions/student/week)
45 [ADM] *students* (2 sessions/student/week)
90 [ADM] *students* (1 session/student/week)

(5) Based on a review of the curriculum in accordance with § 341.55 of this title (relating to curriculum), the programs and services are educationally sound. The Department will develop and publish guidelines which describe appropriate kinds of curricula and types of service.

(c) *Disapproval.* Plans do not meet the requirements of §§ 341.31 and 341.32 will be disapproved. Prior to disapproval, appropriate division personnel will discuss the plan and suggest modifications with appropriate intermediate unit or school district personnel, or both.

(d) *Hearing.* If a plan is disapproved, the intermediate unit shall be entitled to a notice and a hearing in accordance with the Administrative Agency Law (71 P. S. §§ 1710.1-1710.51) and 1 Pa. Code Part II (relating to general rules of administration and procedure).

§ 341.51. Organization.

The following organizational patterns will be approved by the Department:

(a) *Regular programs.* Regular programs do not qualify for special education funding but may meet the needs of certain exceptional persons. Instruction shall emphasize both subject content and development of special skills in accordance with the individualized Education Program of the student.

(b) *Itinerant programs.* Itinerant programs shall be designed as follows:

(1) For students enrolled in regular classes who are generally expected to spend 25% or less of their time with an itinerant special education teacher. The itinerant teacher travels from school to school and instructs students in the development of special skills in accordance with the Individualized Education Program of the student.

(2) For students who have multihandicapping conditions enrolled in a special education class and who are required to spend up to 25% of their time in supportive instruction in skill development in accordance with the Individualized Education Program of the student. Instruction is provided on an individual or small-group basis by an itinerant special education teacher who travels from school to school.

(c) *Resource room.* Resource rooms shall be designed for students who are generally expected to spend 50% or less of their time with the special education teacher, whether in individual or in small-group instruction. Instruction shall emphasize development of special skills in accordance with the Individualized Education Program of the student rather than subject content. For the remainder of their time, students are assigned to regular education programs or to other types of special education programs.

(d) *Part-time special class.* Part-time special classes shall be designed for students who are generally expected to spend 50% to 85% of their time with the special education teacher. Instruction shall emphasize both subject content and development of special skills in accordance with the Individualized Education Program of the student. Up to 10% of the student time shall be spent in related activities as described under subsection (a) of this section. For the remaining time, students are released to participate in individual work experience, work training, or vocational education programs while their special education teacher is assigned to instruct a second group of students or to perform other responsibilities.

(e) *Full-time special class.* Full-time special classes shall be designed for students who are generally expected to spend 85% or more of their time with the special education teacher. Instruction shall emphasize both subject content and development of special skills in accordance with the Individualized Education Program of the student. The remaining student time shall be spent in related activities, such as art, music, physical education, industrial arts, and home economics, with emphasis on the concept of mainstreaming on an individual or group assignment basis.

§ 341.53. Grouping.

(a) Students shall be grouped according to their needs and chronological age in accordance with the following, provided that individual students shall be assigned in accordance with their Individualized Education Program:

(1) *Elementary.* Elementary programs shall include exceptional school-aged persons up to approximately 12 years and six months of age.

(i) Primary programs, when established, shall include school-aged exceptional persons up to approximately nine years and six months of age.

(ii) Intermediate programs, when established, shall include school-aged exceptional persons from approximately nine years and six months to approximately 12 years and six months of age.

(2) *Secondary.* Secondary school programs shall include exceptional school-aged persons from approximately 12 years and six months to 21 years of age. If the exceptional school-aged person reaches the age of 21 any time after the school year begins, the person shall be allowed to continue in the program for that entire school year.

(i) Junior high school programs, when established, shall include school-aged exceptional persons from approximately 12 years and six months to approximately 15 years and six months of age.

(2) Senior high school programs, when established, shall include school-aged exceptional persons from approximately 15 years and six months to 21 years. If the exceptional school-aged person reaches the age of 21 after the school year begins, the person shall be allowed to continue in the program for that entire school year.

(d) *Middle schools.* Middle school programs shall be established by prior approval from the Department in order to meet particular grouping arrangements within these schools.

§ 341.55. Curricula.

(a) *General rule.* Special education curricula shall be designed to meet the needs of special persons and shall be adapted, wherever possible, from regular curricula.

(b) *Integration*. Special education curricula shall be designed to coincide with regular education curricula and shall allow for and lead to the integration of school-aged exceptional persons in regular education programs when their needs dictate that regular education curricula is more appropriate.

(c) *Life skills*. Special education curricula shall be designed to stress general life skills and to maximize independence for those school-aged exceptional persons who differ to such an extent that their needs dictate curricular offerings different from those in regular education.

(d) *Competencies*. The curricula shall call for the acquisition of specific competencies in all areas of development, that is, cognitive, language, social, motor, self-help, vocational; and the like, in accordance with the Individualized Education Program of the student.

(e) *Review*. Special education curricula shall be subject to a review at least every two years and to revision as required.

§ 341.57. Personnel.

(a) *Certification*. Professional personnel shall meet the standards as defined in the Department of Education Professional and Staffing Policies and Guidelines for Certification of Professional School Personnel. Teachers shall hold the proper certification for special education assignment.

(b) *Paraprofessionals*. Paraprofessional and supportive personnel shall be employed in accordance with specific program needs.

(c) *Supervision*. Supervisory personnel shall be certificated and assigned in accordance with Professional Personnel and Staff Policies and Guidelines for Certification of Professional School Personnel.

(d) *In-service training*. School districts or intermediate units, or both, shall provide in-service training for teachers, special and regular, principals, administrators, and supporting staff responsible for programs for school-aged exceptional persons.

§ 341.58. Instructional materials, equipment, and supplies.

(a) *General rule*. Instructional materials, equipment, and supplies provided for exceptional school-aged persons shall be equivalent to those provided for school-aged persons in regular education and of comparable age, grade, and interest levels, with such modifications as may be necessary to meet the individual needs of the exceptional school-aged person and shall be subject to a review and approval by the Department.

(b) *Furniture*. Furniture shall be suited to the age, size, physical status, and individual needs of exceptional school-aged persons and shall be subject to review and approval by the Department.

(c) *Special equipment*. Exceptional school-aged persons who require special instructional materials, supplies, and equipment shall be provided with these items in accordance with the Individualized Education Program.

§ 341.59. Facilities.

(a) *General rule*. Special education schools and classrooms shall be comparable to regular schools and classrooms and shall conform to the requirements of school building regulations prescribed by the Department of Labor and Industry.

(b) *Conditions*. Facilities for special education programs and services shall include proper conditions for lighting, natural and artificial, ventilation, acoustical treatment, heating, and storage of materials and adequate supplies to insure a barrier-free learning environment.

(c) *Itinerant staff*. Itinerant teachers and specialists shall be provided with suitable and appropriate space for working with exceptional school-aged persons individually or in small groups within a school building.

§ 341.71. Special education budgets.

(a) *Preparation*. Each intermediate unit shall prepare annually, in conjunction with its component school districts, a budget for the operation of special education programs and services.

(b) *Forms*. The budgets shall be prepared on budget forms which identify the costs of intermediate unit special education programs and the excess costs of school district special education programs. For this purpose, average daily membership shall be calculated and reported as follows:

(1) *Equivalent full-time* Average Daily Membership (EFT/ADM) in speech and language itinerant service shall be calculated and reported in accordance with section 2509 of the Public School Code of 1949 (24 P. S. § 25-2509).

(2) *Equivalent full-time* Average Daily Membership (EFT/ADM) for all other "itinerant service" shall be four.

(3) *Equivalent full-time* Average Daily Membership (EFT/ADM) for all resource rooms shall be six.

(4) *Equivalent full-time* Average Daily Membership (EFT/ADM) for part-time and full-time special education classes shall be the number of persons assigned multiplied by the percentage of time in special education.

(c) *Submission*. Prior to funding, each intermediate unit budget shall be submitted to the Department of Education, Division of Special Education. The Division will review budget submissions to insure that requested program funding is reasonable and consistent with the intermediate unit plan for the operation of special education programs and services.

(d) *Approval*. A budget will be approved when the fund request is reasonable and conforms to the intermediate unit plan for the operation of special education programs.

(e) *Disapproval*. The Secretary of Education may disapprove a budget or a line item in a budget if, after consultation with the Division of Special Education, the Secretary determines that the request for funding is not reasonable or not consistent with the intermediate unit plan for the operation of special education programs and services.

(1) Prior to disapproval, appropriate Department personnel will discuss the budget and the plan with the appropriate school district and intermediate-unit personnel.

(2) If a budget or a line item in a budget is disapproved, the intermediate unit shall be entitled to a notice and a hearing in accordance with the Administrative Agency Law (71 P. S. §§ 1710.1-1710.51) and 1 Pa. Code, Part II (relating to general rules of administration and procedure).

[Pa. B. Doc. No. 77-1618. Filed September 30, 1977, 9:00 a.m.]

Title 25—ENVIRONMENTAL RESOURCES

PART I. DEPARTMENT OF ENVIRONMENTAL RESOURCES

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 31]

Ski Lift Fees for State Park Operated Ski Areas; Family Cabin Rental Fees

September 21, 1977

Before members: Dr. Maurice K. Goddard, Chairman; William Montgomery; Charles Welsh; Harold Huber; Kent Shelhamer; James Weaver; Albert Hydeman; Ralph Abele; Glenn Bowers; Louis Carter; Jack Brizius; William Wewer; Senator Robert Mellow; Senator Edwin Holl; Rep. Raphael Musto; Rep. Roy W. Wilt; Norman Childs; Russell Haller; John Elliott; Leonard Green; Steven Pernick.

On July 26, 1977, proposals to amend Chapter 31 of the rules and regulations of the Department of Environmental Resources, by amending § 31.61 (relating to State Park operated ski areas) and by adding § 31.73 (relating to family cabin rental fees) were presented for consideration to the Environmental Quality Board.

Notice of proposed rule making was published in 7 Pa. B. 2201. No com-

Commonwealth of Pennsylvania
Department of Education

BASIC EDUCATION CIRCULAR 29–76

DATE ISSUED May 7, 1976	
NUMBER OF SHEETS	2
DATE EXPIRES Indefinite	

THIS MATERIAL MAY BE REPRODUCED

Subject: Due Process Procedures for School-Aged Persons Assigned to Speech and Language Programs and Services

To : Chief School Administrators
Intermediate Unit Executive Directors
School Board Secretaries
Area Vocational-Technical Schools
Elementary and Secondary School Principals

From: Frank S. Manchester Frank S. Manchester
Commissioner for Basic Education

The purposes of this circular are:

- To assure that all school-aged persons assigned or reassigned to speech and language programs and services are afforded their right to due process (Chapter 13, State Board Regulations).
- To facilitate provisions of due process by altering the current administrative procedures.

Commencing with the 1976-77 school year, the following procedure shall be implemented:

1. The attached format shall be reproduced on yellow paper and shall be forwarded to the parent(s) or legal guardian(s) of all school-aged persons prior to assignment or reassignment to speech and language programs and services.
2. No assignment or reassignment shall be made until:
    a. the letter is returned approved, or
    b. 10 days have elapsed with no response, or
    c. a due process letter is approved and written consent is secured following a parent conference, or
    d. a due process hearing has been held and a decision rendered.

3. If the parent(s) returns the attached letter and requests a program placement conference, the school district shall complete the due process forms contained in Basic Education Circular 102-75. The due process letter shall be presented to the parents or legal guardians at the conference in accordance with 22 Pennsylvania Code 13.32(d).

4. If a hearing is requested, all administrative due process procedures contained in Basic Education Circular 102-75 shall be followed.

Please refer all questions to:

Robert C. Warkomski, Supervisor
Programs for Speech and Language Impaired
Division of Special Education
Bureau of Special and Compensatory Education
Pennsylvania Department of Education
Box 911
Harrisburg, PA 17126

SAMPLE FORMAT

DATE

(Name and Address of Parent(s) or Guardian(s)

Dear _______________:

We recommend that _______________ receive the following
(name of child)
services in addition to his/her regular or special education program:

(e.g., two one-hour sessions of individual speech and/or language instruction and/or remediation per week).

If you would like to discuss this proposed assignment, please check the appropriate box at the bottom of this page and return this form to:

____

____
(Name and address of school district or intermediate unit)

If you request a placement conference, we will provide you a letter which explains your right to request a hearing if you are dissatisfied with the outcome of this conference.

IF THIS FORM IS NOT RETURNED BY _______________, YOU WILL WAIVE
(Date)
YOUR RIGHT TO A HEARING FOR ONE YEAR, OR UNTIL ANOTHER CHANGE IN ASSIGNMENT IS PROPOSED FOR YOUR CHILD, WHICHEVER IS SHORTER.

____
(Speech or language clinician)

____
(Supervisor of Speech and Hearing)

☐ I approve of your recommendation for assignment. I do not wish to have a placement conference and waive the right for a hearing at this time.

☐ I am requesting a placement conference in order to obtain more information about the recommended assignment.

__________ (Date) _______________________ (Signature parent or guardian)

__________ (Date) _______________________ (Signature parent or guardian)

Commonwealth of Pennsylvania
Department of Education

BASIC EDUCATION CIRCULAR **42-77**

DATE ISSUED
September 30, 1977

NUMBER OF SHEETS 11

DATE EXPIRES
Indefinite

THIS MATERIAL MAY BE REPRODUCED

Subject: Procedural Safeguards and Procedures for Individualized Education Program Plans for Exceptional School-aged Persons

To: Chief School Administrators
Intermediate Unit Executive Directors
School Board Secretaries and Solicitors
Approved Private Schools
Elementary and Secondary Principals

From: Frank S. Manchester Frank S. Manchester
Commissioner for Basic Education

Follow the attached procedures for evaluation and placement of exceptional school-aged persons. Instructions are included for the preparation and issuance of the following items:

I. A. Request for permission to evaluate a student who has not received special education.

B. Notice of intent to re-evaluate.

II. Notice that student is not exceptional.

III. Request for parent participation to develop an Individualized Education Program (I.E.P.).

IV. Notice of Recommended Educational Assignment (due process notice).

V. Suspension of mentally retarded students.

I, II and III are procedures required by recent federal legislation (P.L. 94-142) and included in the Special Education Standards (22 Pa. Code, Ch. 341). Each school district may prepare its own letters, but must include the attached requirements.

IV is the due process notice required by State Board Regulations (22 Pa. Code, Ch. 13). This notice is to be used as printed.

V lists procedures required by the PARC Consent Agreement (343 F. Supp. 279 (1972)).

Please refer all questions concerning these procedures to:

Mrs. Linda D. O'Connor
Special Education Adviser
Special Education Programs and
Services Division
Bureau of Special and
Compensatory Education
Pennsylvania Department of Education
Box 911
Harrisburg, Pennsylvania 17126
717-787-9753

I.A. Request for Permission to Evaluate A Student who has not Received Special Education

Prior to conducting an evaluation of a student who has not received special education, you must obtain written permission from the parent/guardian, student or surrogate parent, whichever is appropriate.* You must send a notice which states the following:

(1) That the person has been referred for evaluation.

(2) The basis upon which the referral was made.

(3) That the parent has the right to inspect and review all relevant school records about his or her child.

(4) The procedures and specific types of tests which will be used in the evaluation and the approximate dates of such procedures.

(5) The right of the parent to meet with a public school psychologist to discuss the referral and proposed evaluation procedures.

(6) The right of the parent to object to the evaluation and request a hearing in accordance with 22 Pa. Code Chapter 13, § 13.32 (relating to school district due process procedures).

(7) The right of the parent to consent to the evaluation.

Once the parent receives the notice, the parent must sign and give written permission for the evaluation to be conducted.

If the parent does not give permission, the school district should contact the parent to arrange a conference. At that conference the proposed evaluation would be discussed. If, following the conference, the parent will not give permission, the school district is to request a hearing through the Department of Education.

This procedure does not apply to re-evaluation, group screening, or to a review of the child's existing psycho-educational records, reports and diagnostic evaluations.

I.B. Notice of Intent to Re-Evaluate

Before conducting a re-evaluation of a student who is receiving special education, you must send a written notice to the parent. The notice is to state: (1) that a re-evaluation is to be conducted, (2) the approximate date and type of re-evaluation.

This notice is for informational purposes only.

---

* After this point, the use of the word parent will include reference to parent/guardian, student or surrogate parent, whichever is appropriate.

II. Notice that Student is not Exceptional

Should the review and interpretation of the data collected during the evaluation result in the conclusion that the student is not exceptional, a written notice of this is to be sent to the parent. It is required that the notice inform the parent of his/her right to:

(1) Review all data collected on the child.

(2) Request a conference in accordance with 22 Pa. Code § 13.32 (relating to due process).

(3) Request a hearing on the recommendation in accordance with 22 Pa. Code § 13.32 (relating to due process).

III. Request for Parent Participation to Develop an Individualized Education Program (I.E.P.)

Should the review and interpretation of the data collected from the evaluation result in identification of the student as exceptional, an Individualized Education Program (I.E.P.) is to be developed. To obtain parent participation, send to the parent a written notice which states:

(1) The school district and/or intermediate unit has identified the person as exceptional.

(2) The school district will arrange a meeting at a mutually convenient time for the parent to participate in developing an Individualized Education Program.

(3) The time and location of the meeting and who will attend.

Sections 341.15 and 341.16 of the Special Education Standards specify what is to be included in the Individualized Education Program, who is to attend the program planning meeting and details of obtaining parent participation in the program planning meeting.

The Individualized Education Program is to be completed before the NOTICE OF RECOMMENDED ASSIGNMENT (due process notice) is issued.

The I.E.P is to be developed once each year. If no change in assignment is recommended, and it is not time for the re-evaluation which is to occur every two years, the NOTICE OF RECOMMENDED ASSIGNMENT (due process notice) need not be issued to the parent.

In the case of an initial recommendation for special education, or a recommendation for change in a special education assignment, the I.E.P. is to be developed and then the NOTICE OF RECOMMENDED ASSIGNMENT (due process notice) is to be issued to the parent.

When the development of the I.E.P occurs following the re-evaluation, which is to be conducted every two years (§ 341.17(b) Special Education Standards), the NOTICE OF RECOMMENDED ASSIGNMENT (due process notice) is to be issued after the I.E.P. planning meeting.

IV. Notice of Recommended Assignment (Uniform Due Process Procedures)

The State Board of Education has amended the regulations for special education to provide for a uniform set of due process procedures for all exceptional school-age persons (Chapter 13, 22 Pa. Code).*

Attached is the due process notice which is to be used for the educational placement and program for all exceptional school-aged persons, including the mentally retarded. This notice replaces the (white) notice, used for the mentally retarded, previously issued in SAM 522 and BEC 148 and amended by BEC 82-75. This notice also replaces the (blue/pink) notice, used for exceptional school-aged persons other than the mentally retarded, previously issued in BEC 102-75 and amended by BEC 40-76.

*A one page notice may be used prior to the assignment of school-aged persons to speech and language programs. A sample format for this notice follows; this replaces that which was issued in BEC 29-76.

School District-Initiated Due Process

Pages 1, 2, 3, 4 and 5 of this notice are to be issued to the parent prior to any change in educational assignment or prior to an initial assignment for an exceptional school-aged person. This notice must also be sent at least every two years when an exceptional school-aged person is re-evaluated and is about to be assigned or reassigned to an educational program.

This notice is to be issued after the Individualized Education Program (I.E.P.) is developed.

Pages 1 through 5 may either be mailed or presented in person to the parents. If the notice is to be mailed, it should be sent by certified mail, return receipt requested.

In addition, pages 1 through 5 may be presented at the end of the I.E.P planning meeting, but only if the conference has resulted in a finalized and written I.E.P. and only if the recommended placement and program is in accordance with the finalized I.E.P.

Upon receipt of pages 1 through 5, the parent may approve the recommended assignment, or request a pre-hearing conference. At this conference the recommended I.E.P. and placement will be discussed and, if needed, modified.

Following the pre-hearing conference, pages 6 and 7 are to be given to the parent. If you require additional time to prepare these pages, you may mail them to the parent at a later date. (These pages will contain information about the conference, the proposed program and the parent's right to request a hearing.)

Upon receipt of these pages, the parent may indicate approval or request a hearing. Should the parent request a hearing, a copy of all pages of the notice is to be forwarded to the Department of Education within 10 days of the district's receipt of the parent's request.

Parent-Initiated Due Process

The parent may trigger the due process procedures by requesting, in writing, an evaluation of the student (§ 341.17 Special Education Standards). Page 1-A is to be sent to the parent, and a conference is then to be scheduled within 10 days of receipt of the written request. Prior to the conference, the school district is to prepare written evidence supporting the appropriateness of the person's present program or is to develop an I.E.P. (The I.E.P. may be prepared only if an evaluation has been performed as outlined in the Special Education Standards.) Following the conference, pages 1 through 5 of the notice are to be issued to the parent.

State Board Regulations (22 Pa. Code, Ch. 13, § 13.33) describe the parent's right to initiate due process procedures. To do so, the parent must submit to the school district written evidence which adequately supports his or her contention that the student is exceptional and is not receiving an appropriate educational program. Upon receipt of this written evidence, the school district is to forward to the parent page 1-A. The scheduling of a conference must occur within 10 days. Prior to the conference, the school district is to prepare written evidence supporting the appropriateness of the student's present program or is to develop an I.E.P. Following the conference, pages 1 through 5 of the notice are to be issued to the parent.

Speech and Language Impaired (One-page Sample Format)

A notice is to be issued to the parent prior to any change in assignment or initial assignment to a speech and language program. This notice must also be issued at least every two years following re-evaluation. The notice is to be issued after the I.E.P. is developed.

If the parent gives written approval, or if the parent does not respond within 10 days of their receipt of the notice, the program may be implemented. If the parent indicates disapproval of the program, you are to issue pages 1 through 5 of the NOTICE OF RECOMMENDED ASSIGNMENT (due process letter) and follow the instructions previously outlined.

Residents

The school district of residence will issue the due process notice to the parent/guardian or to the student, if the student is emancipated. This applies to students attending intermediate unit programs as well as school district programs.

Non-residents - 1305 Placements

In the case of 1305 placements, the school district in which the foster parent resides is responsible for issuing the due process notice to the guardian (the agency which placed the child). This applies to students attending intermediate unit programs as well as school district programs.

Non-residents - 1306 Placements

In the case of 1306 placements, when the parent/guardian has a legal Pennsylvania residence, the district of residence will issue the notice. When an agency acts as guardian, the school district or intermediate unit operating the program will issue the notice to the agency. Should this student move to a group home, private licensed facility, child care center or other setting which is a 1306 placement, the school district or intermediate unit operating the program will issue the notice to the parent/guardian or agency. Only in the case of 1306 placements will the intermediate unit be authorized to issue the due process notice.

In the case of students who are wards of the state, the school district or intermediate unit operating the program will issue the due process notice to the person named responsible for the student and to the surrogate parent.

NOTICE OF RECOMMENDED ASSIGNMENT

Name and Address of Parent/Guardian,
Student or Surrogate Parent:

____
____
____

____
Date

Dear ______________________________:

This is your notice of the recommended educational program and placement for

____
Name of Student and Present Educational Status

If you approve this recommendation, sign and indicate this below.

An Individualized Education Program has been developed for this student. A copy of this program is attached.

Before this recommendation is implemented, you have the right to request a pre-hearing conference to discuss, with school personnel, the recommended educational program and placement. If you disagree with the outcome of this conference, you may request a formal hearing to contest the implementation of the recommendation.

If you wish to participate in a pre-hearing conference, sign and indicate this below; then return this page to the address below within 10 days if you received the notice by certified mail, or within 5 days if the notice was given to you in person.

If you do not return this page within the time specified above, it will indicate you approve the recommendation and you do not wish to request a hearing at this time.

For further information contact: ______________________________

____

____
Local School District and Responsible Official

____
Signature of School District Superintendent

- -

( ) I approve the recommended placement and program and do not wish to request a pre-hearing conference or a hearing.

( ) I do not approve the recommended placement and program. I request a pre-hearing conference.

__________ Date ______________________________ Signature of Parent/Guardian, Student or Surrogate Parent

__________ Date ______________________________ Signature of Parent/Guardian

Following is the recommended educational assignment for the student:

( ) 1. Regular class (24 Purdon's Statutes §5-501)

( ) 2. Regular class in a regular school with supporting services (24 Purdon's Statutes §13-1372(2))

( ) 3. A school district special education program in a regular school (24 Purdon's Statutes §13-1372(3))

( ) 4. A school district special education program in a special facility (24 Purdon's Statutes §13-1372(3))

( ) 5. An intermediate unit program in a regular school (24 Purdon's Statutes §13-1372(4))

( ) 6. An intermediate unit program in a special facility (24 Purdon's Statutes §13-1372(4))

( ) 7. An approved private school program (24 Purdon's Statutes §13-1372)

( ) 8. A state school program (24 Purdon's Statutes §13-1372(5))

( ) 9. An approved out-of-state program (24 Purdon's Statutes §13-1372(5))

( ) 10. An intermediate unit program of instruction in the home (24 Purdon's Statutes §13-1372(3))

( ) 11. Other. Specify: ______________________________

Educational assignments 2-10 are listed in priority order for handicapped school-aged persons. This priority order shall be followed for the handicapped, except where deviation meets the needs of the student or the purpose of the regulations (22 Pa. Code 13.11(D)).

Educational assignments 2-6 above are listed in priority order for gifted and talented school-aged persons.

If the student is mentally disabled, mentally retarded or emotionally disturbed, he/she is entitled, under the Pennsylvania Mental Health and Mental Retardation Act of 1966 and the Pennsylvania Mental Health Procedures Act of 1976, to the services of a local MH-MR center (name and address on page 4) for an independent medical, psychological and educational evaluation.

At any time you have the right to be represented by the person of your choice and to obtain an independent evaluation.

At any time you will be given reasonable access to all school district or intermediate unit records concerning the student, including all test results or reports upon which the recommendation may be based. This will be in accord with the Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records under 22 Pa. Code §12.33.

BEFORE THE RECOMMENDATION IS IMPLEMENTED, you have the right to request a PRE-HEARING [illegible]FERENCE. Following the PRE-HEARING CONFERENCE, you have the right to request a HEARING before a designee of the Secretary of Education.

I. PRE-HEARING CONFERENCE

If you request a PRE-HEARING CONFERENCE, these procedures will be followed:

1. The PRE-HEARING CONFERENCE will be scheduled within 10 days from the date the school received your request.
2. You may request from the school district or intermediate unit a copy of the complete evaluation or re-evaluation of the student. Such evaluation will be completed prior to the PRE-HEARING CONFERENCE.
3. The chief school administrator or designee will chair the conference.
4. The PRE-HEARING CONFERENCE will include but not be limited to: the parent, guardian or surrogate parent; a supervisor of special education; the student, if appropriate; and if possible, the evaluator(s) and the guidance counselor. Any person the parent wishes to invite may attend. The parent may request that the conference be closed to the public.
5. The school district and/or intermediate unit personnel will provide written evidence to support the appropriateness of the student's program. You may present records or reports, not previously available to the district or intermediate unit, which you feel will be helpful in determining the appropriateness of the recommended assignment.
6. You may be accompanied by any person of your choice, including legal counsel, whom you wish to either advise or represent you at the conference.
7. At the PRE-HEARING CONFERENCE, every attempt will be made to reach an agreement on an appropriate placement and program. The purpose of the conference is to foster discussion and not confrontation.

FOLLOWING THE PRE-HEARING CONFERENCE, YOU WILL BE GIVEN DOCUMENTATION OF THE CONFERENCE AND THE OPPORTUNITY TO REQUEST A HEARING.

II. HEARING

If you request a HEARING, these procedures will be followed:

1. The school district will forward your request to the Department of Education within 10 days from the date the district receives your request.

2. The HEARING will be conducted by an impartial hearing officer who is a designee of the Secretary of Education.

3. The HEARING will be held no sooner than 15 days nor later than 30 days from the date your hearing request is received by the Department of Education.

4. The HEARING will be held in your local school district or intermediate unit and may be held in the evening, if you wish.

5. It will be an oral, personal HEARING, and it will be closed and private unless you specifically request an open HEARING.

6. You may be represented by any person of your choice, including legal counsel.

7. You have the right to present evidence, including expert medical, psychological and educational testimony. Any evidence which you present is to be disclosed to the school district/intermediate unit at least 5 days before the hearing.

8. You have the right to compel the attendance of any school official, employe or agent of a school district, intermediate unit or the Department of Education who may have evidence directly relevant to the recommended assignment and to confront and to pose questions to any witness at the HEARING.

9. Any evidence which the school district/intermediate unit presents is to be disclosed to you at least 5 days before the HEARING.

10. A transcript of the HEARING will be made; a copy will be at the school district or intermediate unit office. You may review this copy, or, at the close of the HEARING, you may request your own copy free of charge.

11. The decision of the hearing officer will be based solely on the evidence presented at the HEARING. The hearing officer will decide whether the recommended assignment is appropriate. If the hearing officer decides that the assignment is inadequate or inappropriate for your child and if the hearing officer feels that there is substantial evidence to show that your child is in need of special education, he may recommend an alternate type of special education for your child or he may recommend modifications in the school district/intermediate unit proposed program. After the hearing officer's decision is rendered, it shall be the school district's responsibility to implement the decision.

12. The decision will be made within 20 days of the HEARING. It will be in writing, and will contain findings of fact and conclusions of law. The decision will be sent to you by certified mail.

13. Within 10 days of the date you receive the decision, the school district will contact you to schedule a conference to develop an Individualized Education Program.

14. No change will be made in the student's educational assignment until a decision has been rendered by the hearing officer.

15. You may appeal the decision of the hearing officer to the Secretary of Education who will review your objections to the hearing officer's decision. The appeal procedures will be attached to your copy of the decision. The decision of the Secretary of Education on your objections may in turn be appealed to Pennsylvania Commonwealth Court or, pursuant to 20 U.S.C. § 1401 et seq., to Federal district court.

The local Mental Health and Mental Retardation Base Service Unit is:

____

______________________________________ PHONE: __________

The Pennsylvania Association for Retarded Citizens may assist you concerning the hearing. The PARC chapter nearest to you is:

____

______________________________________ PHONE: __________

If you wish to be represented by a lawyer, but are unable to afford one, free legal services may be available to you from:

____

______________________________________ PHONE: __________

The following agencies may also assist you:
(NOTE: Appropriate list of agencies with address, phone number and the type of student served to be provided by each intermediate unit.)

____

______________________________________ PHONE: __________

____

______________________________________ PHONE: __________

____

______________________________________ PHONE: __________

Date

I. PRE-HEARING CONFERENCE

The following persons have participated in the educational PRE-HEARING CONFERENCE (list names and positions of each person who participated in the conference):

Following are the issues which were resolved/not resolved at the PRE-HEARING CONFERENCE:

II. INSTRUCTIONS

If you approve of the educational placement and program recommended for the student, please check the space provided for approval and sign your name. If revisions were made in the recommended assignment and program as a result of the conference, you will receive a written notice describing the revisions.

Once you indicate approval, the program will be implemented.

If you disapprove of the educational placement or program recommended for the student, and you wish to request a hearing to resolve any differences, check the space provided for disapproval and sign your name. To request a hearing, send in your request within 10 days of the date you received this.

If you indicate disapproval, the program will not be implemented. No change in assignment will occur until the decision of the hearing officer is received. Please review the notice which was previously sent to you. It contains an outline of hearing procedures.

If you do not respond within 10 days of the date of the PRE-HEARING CONFERENCE, it will indicate that you approve the educational placement and program that was discussed at the conference and any revisions which you received. No response also indicates that you waive the right to a hearing at this time.

III. RESPONSE

Please check one and sign.

( ) I approve of the educational placement and program which is recommended.

( ) I do not approve of the educational placement and program which is recommended. I therefore request a hearing.

Date ________ Signature of Student, Parent/Guardian or Surrogate Parent

Date ________ Signature of Parent/Guardian

IV. OPEN OR CLOSED HEARINGS

If you requested a hearing, you have the right to decide whether it will be open to the public or closed and private.

If the hearing is closed and private, then only you, the student (if appropriate), your representative(s), school officials, other witnesses, the hearing officer and the recorder will be present. When a hearing decision is made, it will only be released in an identifiable form to you and to those persons who must implement it. If you choose to have a closed hearing, you may, nevertheless, designate friends or observers whom you wish to be allowed to remain present.

If the hearing is open to the public, anyone may attend it. When a hearing decision is made, it may be released with the student's name and will be available to interested persons. The transcript, letters, documents, reports, test results and other material from the hearing will not be released to the public beyond the extent to wihch they appear in the decision.

Please check one and sign.

( ) I wish this student's hearing to be open to the public.

( ) I wish this student's hearing to be closed and private.

Date ________ Signature of Student, Parent/Guardian or Surrogate Parent

Date ________ Signature of Parent/Guardian

NOTE: Unless you indicate otherwise, the hearing will be a closed hearing.

(Reproduce this letter on school district stationery.)

____
Date

Name and Address of Parent/Guardian,
Student or Surrogate Parent:

____

____

____

Dear ____:

This letter confirms that you are requesting an evaluation or initiating due process procedures concerning the educational placement and program for

____.
Name of Student and Present Educational Program

The school district will prepare written evidence concerning the appropriateness of the student's educational program or will prepare a proposed Individualized Education Program. This material will be available to you or your representative. A conference will be scheduled to discuss your concerns.

Should the school district feel it necessary to conduct an evaluation prior to this conference, you will be notified. If you have had an outside evaluation completed, please bring the information to the conference.

If the conference results in recommended revisions to the student's educational placement and program, you will be notified of the revisions. Following the conference, you will be given the opportunity to request a hearing.

Sincerely,

____
Signature of School District Superintendent

1-A (Parent-Initiated)

SAMPLE FORMAT
SPEECH AND LANGUAGE IMPAIRED

Name and Address of Parent/Guardian
Student or Surrogate Parent
____
____

Dear ______________________________:

A planning meeting was held on Date to develop a program of speech and language services for Name of Student . The individualized education program which was developed is attached. We recommend that this program be provided in addition to the student's regular or special education program.

Before this recommendation is implemented, you have the right to request a hearing on the appropriateness of this program.

If you approve this recommendation, please sign and indicate this below; then return this page to me. We will then implement this program.

If you do not return this page by __________ we will begin to implement the program which has been described.

If you do not approve this recommendation, please sign and indicate this below. You will then receive further information on your right to a hearing, and we will not begin to implement the program.

For further information call me at ______________.

____
Speech or language clinician

____
Supervisor of Speech and Hearing

( ) **I approve** the recommended program. I do not wish to have a further conference or a hearing.

( ) **I do not approve** the recommended program. I am requesting a conference in order to obtain more information about the recommended assignment.

____ ______________________________
Date Signature of Parent/Guardian, Student or Surrogate Parent

____ ______________________________
Date Signature of Parent/Guardian

V Suspension of Mentally Retarded Students

The school district or intermediate unit must follow these procedures in order to suspend any student who is mentally retarded:

(1) Prior to suspension telephone the chief of the Special Education Programs and Services Division for approval.

(2) If approval is granted, issue a NOTICE OF RECOMMENDED ASSIGNMENT (due process letter) to the parent/guardian. This due process letter should indicate the reasons for suspension.

(3) Forward a copy of the due process letter, accompanied by a chronology of events, to the adviser for Right to Education.

(4) Confirmation of the approval will be sent to you.

(5) These procedures are mandated and outlined by the Right to Education Consent Agreement 343 F. Supp. 279 (1972) and by the State Board Regulations, Chapter 13, 22 *Pennsylvania Code*.

APPENDIX E

SPEECH AND HEARING STAFF AGENDA
SEPTEMBER, 1977 - JUNE, 1978

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

September 8, 1977

I. Introduction of new staff members

II. Availability of resources from the Pennsylvania Materials Center for Hearing Impaired (PMCHI) by representatives Ms. Mary Lou Brinker and Ms. Jo Lassiter of the Center

III. Pupil tracking - assuring due process procedure

- A. Description of new system
- B. Instructions for transferring pupils on caseload from previous tracking system to new tracking system
- C. Procedures for Individual Educational Program (I.E.P.) development - Presentation by R.A. Green; A. Stirba, III, I.E.P. Coordinator; C. Rannels, I.E.P. Implementor

IV. Helper Service for hearing impaired pupils

V. Additional items

- A. CED - Council for Exceptional Children membership
- B. NESHAP - Northeastern Speech and Hearing Association of Pennsylvania - membership
- C. Comments from staff

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

September 15, 1978

I. Progress report on implementing P.L. 94-142

  A. Letters of invitation to participate in I.E.P. development issued to parents

  B. Report of supervisors meetings with district administrators/staff discussion/consistency in implementation of objectives with I.U. staff and district faculty

  C. Testing procedures for new referrals

  D. CEC audio/filmstrip for faculty and/or P.T.A. meetings available from A. Stirba, I.E.P. Coordinator

II. New report forms/elimination of old report forms

III. Staff schedules

IV. Child count for federal funding

V. Additional staff concerns

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

October 6, 1977

I. Implementing P.L. 94-142 effectively - continued

  A. Review of implementation procedures

  B. New developments, problems to anticipate, solutions

  C. Scheduling therapy for maximum instruction

II. Hearing screening of special education class pupils

III. Additional items

  A. Petty cash

  B. Other concerns of staff

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

November 3, 1977

I. Introductions

- A. John Aigeldinger, new staff member
- B. Student therapists from East Stroudsburg State College

II. Implementing P.L. 94-142: R.A. Green; C. Rannels, I.E.P. Implementor

- A. Enrollment and dismissal procedures for new cases
- B. I.E.P. development - areas of special concern
- C. Effective use of an "Action Request"

III. Report on current due process hearings

IV. Report on staff feedback from the four group leaders

V. NESHAP all-day seminar, November 12, 1977

VI. Additional concerns of staff and open discussion

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

December 1, 1977

I. Introductions of new staff members

   A. Howard Eliason, Instructional Advisor

   B. Jeanette Gibbs, Speech Therapist, Non-Public Schools

II. Housekeeping details

   A. Orders - finding them and confirming receipt

   B. Permanent schedules of staff

   C. Travel vouchers

   D. Monthly reports

III. Update on new enrollment/revision/dismissal procedure and IEP development. Question and answer session with C. Rannels, I.E.P. Implementor.

IV. Report on the American Speech and Hearing Association Convention - Barbara Brugger

V. Voice Therapy Program Presentation - Judy Schimmel

VI. Staff Christmas party details

VII. Miscellaneous concerns - staff discussion

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

January 5, 1978

I. General Announcements

 A. Additional I.E.P. Implementor to be employed for Itinerant Programs

 B. Guest speaker at the February 5 staff meeting will be Mr. Robert Warkomski, State Supervisor of Speech and Hearing

II. Open discussion with Supervisor and I.E.P. Implementor regarding problems and concerns - clarification of procedures for unique cases.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

SPEECH AND HEARING STAFF AGENDA

February 2, 1978

I. Introductions

A. Mrs. Barbara Miller, I.E.P. Implementor

B. Mrs. Marguerite Kennedy, Speech Therapist replacing Mrs. Miller

C. Student Speech Therapists from East Stroudsburg State College

II. Report on survey regarding P.L. 94-142; involving Administrators, Teachers, Parents, Itinerant Teachers and Therapists, I.E.P. Coordinator, I.E.P. Implementors and Instructional Advisor

III. I.E.P. Implementor's Report

IV. Guest Speaker

A. Mr. Robert C. Warkomski, State Supervisor of Speech and Hearing Programs. "Current Trends in Speech and Hearing: The View from Pennsylvania Department of Education"

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Speech and Hearing Staff Meeting Agenda

March 16, 1977

****

- I.
  - A. Reactions to February's staff meeting speaker.
  - B. Update on PDE reorganization discussed at staff meeting.
  - C. Completion of unfinished business.
- II. Question regarding office compliance of 504 regulations.
- III. General Supplies
- IV. Monthly reports/due date
- V. Review of list of pupils screened, but not referred.
- VI. Kindergarten registration.
- VII. Screening of second grades - B. Miller
- VIII. Referrals for East Stroudsburg State College's summer clinic.
- IX. Private therapy.
- X. Improving assignments 1978-79 - R. Sasserath
- XI. Tests: Booklet, Battery of Tests - J. Schimmel
- XII. A timely review of current IEP procedures - C. Rannels and B. Miller
- XIII. IEP Quiz - Discussion
- XIV. Late items and staff discussion

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Speech & Hearing Staff Meeting

April 6, 1978

I. General Announcements

II. Update on outstanding referrals

III. Developing Quality IEP's - Barb Miller

IV. Kindergarten Registration and Procedures for District Referrals of new registrants in need of further evaluation for speech or hearing problems.

V. Convention Details

VI. Staff Concerns

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

May 11, 1978

Staff Agenda

I. END-OF-YEAR ACTIVITIES

II. Itinerant Report - Discussion

III. Testing Materials - Update - Judy Schimmel

IV. Children likely to need screening/evaluation/therapy beginning 9/78...listing from Preschool Program.

V. Report Ataxia Program - Cheryl Kusko

VI. IEP Implementors Reports - Cathy Rannels, Barb Miller

VII. Student Teaching Assignments 1978-1979
    East Stroudsburg
    Marywood College

VIII. NESHAP News - Barb Miller
    Spring Dinner Meeting - Dr. Marshall Duguay

IX. PSHA - Post - Convention Comments

X. General Concerns - 1978-1979 In-Service Considerations

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

STAFF AGENDA

June 1, 1978

I. General

- A. Preschool Referrals for Speech
- B. NESHAP Representative
- C. Absence Reports

II. P.L. 94-142 Implementation

- A. New Evaluations (Notification)
- B. Pre-Kindergarten Referrals
- C. End-Of-Year Reviews/Conferences
- D. End-Of-Year Dismissals
- E. Proposed Action Request
- F. Comments: C. Rannels, B. Miller, Staff

III. End-Of-Year Details

- A. Final day for staff (tentative) - Howard Eliason
- B. End-Of-Year checklist -- add name & final day when confirmed
- C. Selection of date for ADM calculations
- D. Attendance Registers
- E. Selection of date for filing records/procedures
- F. Equipment return - M. Balko/R. Sasserath
- G. Library book return - D. Carcione
- H. Tests return - J. Schimmel
- I. Supplies & keys return
- J. Dates conference room will be available to staff
- K. Meetings with supervisor

IV. Planning - 1978-1979

- A. Ordering supplies and equipment
- B. Assignments/consolidation of schools
- C. Providing appropriate information for next therapist

V. Miscellaneous

Staff concerns and announcements

APPENDIX F

SPECIAL PUPIL SERVICES MEETING AGENDA
(WITH DISTRICT CONTACT PERSONNEL)

Page

September 15, 1977 Agenda.................................... 243

February 14, 1978 Agenda..................................... 244

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

SPECIAL PUPIL SERVICES MEETING

September 15, 1977
9:00 a.m. - 11:45 a.m.

BOARD ROOM

AGENDA

I. Greetings and Introductions - Jack Superka, Supervisor of Special Education.

II. Current Mandates and Trends in Special Education - Dr. John A. Abbruzzese, Jr., Director of Special Education.

III. Assignments of Regional Advisors and School Psychologists - Dr. Joseph Mickley, Jr., George Williams and Jack Superka, Supervisors of Special Education.

IV. Update on Final Rules on Education Records; District/I.U. Pupil Record Policies - John Trout, School Psychologist.

V. Status Report on Cooperative efforts by Districts and Intermediate Unit to meet needs of gifted and talented students.

VI. Education of the Handicapped Act, Part B and Public Law 94-142; I.U. 20's compliance with reference to District/Intermediate Unit responsibilities and procedures - Robert Green, Supervisor of Special Education, Alfred Stirba, Individual Education Program (I.E.P.) Coordinator, John Trout, School Psychologist.

  a. Introduction of I.E.P. Implementors.
  b. Review of referral forms.
  c. Procedures for implementing parent/student rights.
  d. Formulating the mandated Individual Education Program (I.E.P.).
  e. Due process procedures.

VII. Lunch

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

SPECIAL PUPIL SERVICES MEETING

February 14, 1978
9:00 a.m. - 11:45 a.m.

BOARD ROOM

AGENDA

I. Greetings and Introductions by Mr. Jack Superka, Supervisor of Special Education.

II. Current Regulations and Trends in Special Education by Dr. John A. Abbruzzese, Jr., Director of Special Education.

III. Surrogate Parent Overview by John Trout, Coordinating School Psychologist.

IV. Critique and Update on the referral-placement process by Dr. Joseph Mickley and Mr. Robert Green, Supervisors of Special Education.

   A. Refinement of referral process - Mr. John Trout
   B. Facilitating placement - Mrs. Betty Neubauer, School Social Worker

V. Review of I.E.P. Program by Mr. Al Stirba, Individual Education Program Coordinator.

VI. Status report on Gifted Education by Mr. Jack Superka; Mr. Howard Eliason, Instructional Advisor; Mr. Richard Erdman, Master Teacher; and district contact personnel.

VII. LUNCH

APPENDIX G

SELECTED MEMORANDA REGARDING IMPLEMENTATION OF NEW PROCEDURES

Page

R. A. Green to District Administrators and Teachers re: new procedures, September, 1977............. 247

R. A. Green to District Personnel re: new procedures, September, 1977...................... 249

R. A. Green to District Superintendents re: meeting with District Staff, September 23, 1977...... 250

District Response: Superintendent's Council Agenda.......... 251

District Response: Superintendent's Written Response........ 252

R. A. Green to Intermediate Unit Executive Director re: explanation of system, November 3, 1977............. 253

R. A. Green to District Superintendents re: pupils not referred, December 14, 1977............... 254

R. A. Green to District Superintendent - form memorandum re: pupils not referred................................ 255

Form to accompany memorandum above......................... 256

R. A. Green to District Superintendents re: district referral systems, February 14, 1978............. 257

R. A. Green to District Superintendents re: Revised Vision referral form, February 28, 1978........... 259

R. A. Green to Assistant Superintendent re: cooperative effort to expedite pupil processing, February 28, 1978... 260

Page

R. A. Green to District Personnel re: suggested model district referral system, April 25, 1978............ 261

Sample responses from district to April 25, 1978 memorandum.................................. 263

R. A. Green to Speech/Hearing/Vision personnel re: expediting evaluations of pupils referred, March 7, 1978............................ 264

R. A. Green to Speech/Hearing/Vision Itinerant Staff re: input for March 15 and 16 meetings about Quality I.E.P.'s, March 9, 1978.. 265

Outline for Quality I.E.P. presentation...................... 266

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: School Personnel

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Speech Therapy Program, 1977-1978

DATE: September, 1977

In this current school year there will be numerous changes in the speech therapy program. With the Public Law 94-142 in effect we have made a number of modifications as follows:

1. Previously classes were screened for speech problems automatically and referrals into the therapy program were handled by the speech therapist. Beginning 1977-1978 we would like to have requests for screening of pupils in writing. The speech therapist serving your school will be able to supply you with the proper form if the principal is not able to do so. Following the screening a consultation will be held with the teacher. In cases where no therapy or further evaluation is felt to be necessary, you will be so informed. Where further evaluation is indicated you will be requested to complete a referral form according to the directions provided to each principal by the Intermediate Unit.
2. We will be adhering more closely to developmental norms in selecting pupils for therapy. For instance, pupils in Kindergarten, first grade, or second grade generally will not be taken for therapy if there "speech problems" are problems of normal maturation.
3. As part of the speech correction program it may be possible to provide a speech improvement program in Kindergarten and/or first grade. In this type of program the entire class can be instructed to help the children with their speech and language. This program has been shown to assist pupils in their reading readiness scores as well. The speech therapist should be contacted to work out details if you are interested in this program.

We hope that the changes that will be made for the 1977-1978 school year will not cause difficulty to you and will result in a more efficient program. If you are concerned about any aspect about the speech therapy program, you are invited to contact the speech therapist serving your building or write or call me directly. I can be reached in the Nazareth Office at (717) 992-4145. I will be available to meet with school personnel to explain and clarify our program. I am interested in your concerns and suggestions. Thank you for your cooperation.

RAG:khp

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: District Personnel

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Speech Referrals

DATE: September, 1977

Public Law 94-142 requires that every child with a learning handicap must have an Individualized Education Program designed to meet his or her specific needs with continuous checks to insure that his or her maximum potentials are reached.

October 1, 1977 is the date set for completion of I.E.P.'s for all students who have been placed in a special class. This includes children with speech handicaps.

Beginning with the current school term (1977-1978), a new process will be implemented for referring pupils to the speech therapy program.

1. If a teacher wishes to have a pupil screened by the speech therapist because he or she is not sure of the extent of the problem, the teacher should complete a "Request for Speech Screening/Consultation" form and return it to the speech therapist.
2. The speech therapist will screen the pupil and then discuss the findings with the teacher.
3. If therapy or further evaluation is indicated, a referral form and permission to evaluate will be required. Forms and district procedure are available through each building principal.
4. If the teacher wishes to refer the pupil formally to the speech therapy program without first having a speech screening, the procedures in #3 should be followed.

RAG:khp

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Itinerant Program Referral Procedure

DATE: September 23, 1977

I would like to request a schedule of the next few principals' meetings and ask that I be given the opportunity to discuss our new Itinerant Referral Procedure which has been designed to meet the requirements of Public Law 94-142 and provide expedience between the time of referral and the time that the child is placed in speech therapy, hearing therapy, or sessions with the teachers' of the visually limited. A brief overview of this procedure was delivered to the district contact persons in attendance at the Intermediate Unit Office on September 15, 1977. I feel that the principals, who will be working more closely with the referral procedures should also have the opportunity to become more familiar with the procedure through the principals meetings.

In addition to the schedule would you please indicate whom I should contact in order to arrange time on the specific agenda.

If you or any of your staff have questions regarding the Itinerant Referral Procedure please do not hesitate to contact me in the Intermediate Unit Office. I will be happy to discuss this situation on the phone or in person with you and/or your staff. Thank you for your cooperation.

RAG:khp

The author regrets that page 251, an agenda of a Superintendent's Council, did not reproduce in the final copy.

Robert A. Green

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Dr. H. Ronald Huber

FROM: Robert A. Green

SUBJECT: Forms Required For Itinerant Program Referrals

DATE: November 3, 1977

You requested samples of forms required for referrals for speech, hearing and vision pupils. They are attached.

For Speech Referrals	For Hearing Referrals	For Vision Referrals
*Salmon colored sheet (basic information & district signature)	**Green sheet - Permission to evaluate is on reverse	**White sheet - Permission to evaluate on reverse
*White sheet - Permission to evaluate (required by Due Process)	Buff sheet - as speech	Buff sheet - as speech
Buff sheet - Suggested format for introducing IEP's to parents		

*We require only these two forms to initiate a speech referral.

**We require only one form for a hearing or a vision referral.

Once the referral form with permission to evaluate is received by the Intermediate Unit, we:

1. Begin tracking for child count purposes.
2. Evaluate.
3. Respond to parents re: evaluation results.
4. Send IEP conference letter of invitation to parents.
5. Hold IEP conference.
6. Send Due Process for formal enrollment.
7. Begin the therapy program.

RAG:khp

cc: Dr. John A. Abbruzzese, Jr.

Attached

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green

SUBJECT: Referrals For Itinerant Instruction

DATE: December 14, 1977

In reviewing our records we have found that pupils from your district who were screened earlier this year by an Intermediate Unit Number 20 speech therapist have not been referred for full evaluation as of November 30, 1977.

The following listing indicates pupils who were found to be in need of a speech evaluation. To accomplish this the referral form and parental permission to evaluate must be completed and submitted to the Intermediate Unit office. We have not received referrals for these pupils. We would like to provide instructional services to these pupils as soon as the request and permission to do so is received. You may wish to follow through on these cases.

District	Pupil	School	Date Screened	Days Elapsed To November 30

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Referrals For Itinerant Programs

DATE:

Please check the attached listing of pupils. It is sent as an indication to you of our record of pupils who were screened and for whom referrals were recommended, but to date have not been received in the Intermediate Unit.

If your records do not agree with ours, please do not hesitate to bring them to our attention. You may find that some pupils moved, or in some cases parents did not grant permission for the evaluation.

RAG:khp

Enclosures

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

DISTRICT: ______________________ Date: ______________

Pupils screened for itinerant program but not referred.

Child	School	Grade	Date Screened

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Chief School Administrators

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Speech/Hearing/Vision Referrals

DATE: February 14, 1978

GENERAL CONCERN:

From the recent survey which we conducted, the feedback indicated that some principals and/or teachers in the Intermediate Unit still have misunderstandings regarding referrals for itinerant speech/hearing/vision programs. One of the noted concerns was a delay in providing the instruction. Part of the problem involved the clerical processing in the Intermediate Unit Office. We have taken steps to alleviate this problem. We are now on a current processing basis: Cases are assigned to the itinerants within 2 days of the receipt of the referral.

WHERE THE PROBLEM APPEARS TO BE:

Where there is a concern of the principals or teachers regarding a delay at this time it may be wise to determine answers to the following questions:

1. Does your system provide for expeditious clearance of the referral from teacher to I.U.?

2. Do principals and teachers understand that parental permission must be obtained before the district sends the referral to the I.U. and a delay may be on the parents' part?

3. Do you have a feedback system to assure principals and teachers that referrals have been processed (or are not processed, perhaps due to parents' refusal to grant permission to evaluate)?

4. Are principals and teachers aware that following the referral to the I.U. an evaluation is performed, and then, following P.L. 94-142 dictates,

   a. the parents must be informed, in writing that they have 10 days in which to notify us of their interest in participating in a program development conference?

b. following the conference a due process form must be sighed before the instruction may begin?

c. if parents do not wish to participate in a conference, a planning conference must be held without the parents, and a due process form must be sent to the parents, with an indication that they have 10 days in which to sign and return the due process, approving or disapproving the program?

5. Do personnel understand that we intend to place most pupils in programs within 30 days of receipt of the referral (30 days including the required parental notification periods)?

If any of the questions receive a "NO" answer, clarification of the process should be sought. We do not want to discourage them when placement is not immediate. A proper perspective of the situation may alleviate this feeling.

OUR OFFER:

Upon request we are available to visit your staffs (principals, faculties, etc.) to improve this understanding. Specific personnel who will address your personnel include:

Mr. Robert A. Green, Supervisor of Special Education
Mr. Howard Eliason, Instructional Advisor
Ms. Cathleen Rannels, I.E.P. Implementor, Southern Region
Mrs. Barbara Miller, I.E.P. Implementor, Northern Region
Itinerant therapists/teachers, serving each school.

We welcome the opportunity to meet with you and/or your staffs. Please do not hesitate to call (215) 759-7600 or (717) 992-4145 if we can assist you.

RAG:khp

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Chief School Administrators

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Revised Vision Referral Form

DATE: February 28, 1978

Enclosed is a supply of ten vision referral forms which have been revised as of February, 1978. We request that these be used and any previous vision referral forms from Intermediate Unit Number 20 be discarded.

The revised form has been altered on the reverse side to include parental permission for Orientation and Mobility Specialist evaluation and psychological testing. At the start of this school year it was not clear as to whether or not psychological testing on vision referrals was necessary in order to place a pupil in the Itinerant Program for Visually Limited, or what format our new Orientation and Mobility evaluation would utilize. We have been seeking additional parental permission for psychological and O & M evaluation in order to comply with the P.L. 94-142 requirements. We feel that this is an appropriate time to make a change so that paperwork is reduced and instructic can be delivered to the pupils in the program more expeditiously.

Thank you for attending to this request. Additional copies of the form are available upon request to the Intermediate Unit Office.

RAG:khp

Enclosures

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Dr. Gerald Strock, Assistant Superintendent

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Speech Referrals - Follow Up

DATE: February 28, 1978

The attached sheets address the twenty speech cases in question at our meeting recently on a case by case basis.

Delays seem to have occurred at all levels; district processing, I.U. processing, therapist absence, snow days, Christmas vacation, and pupil absence.

Our meeting was helpful in discussing direction to alleviate delays in the future. As stated then, we are now on a current day processing basis in the Intermediate Unit. If there is a question at any time regarding any pupil(s), please do not hesitate to call this office. We will be able to determine the point in processing of the referral and expedite the procedure if it is bogged down.

I am striving to get most pupils in the program within 30 days. I feel that with the procedure we are using this can be done, due process of law will be assured and the results will be ultimately will be beneficial programming for the pupils.

RAG:khp

Enclosures

cc: Mr. Scott Palermo
Mr. James Alberano
Miss Pam Chapman

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Suggested District Tracking Of Referrals For Itinerant Programs

DATE: April 25, 1978

As you know, during this school year we are implementing a new referral procedure for the itinerant programs. Over the past few months we have received feedback as to how districts have been accomplishing their own processing and tracking of these referrals. We would like to offer a model which you may wish to compare to your own internal structure for accomplishing expeditious referrals in speech, hearing and vision cases.

Initial Screening:

Speech:

Teacher (or nurse) lists pupils on "Request for Speech Screening/Consultation" and submits the form to the I.U. speech therapist assigned to their building.

Speech therapist screens pupils, then meets with teacher to discuss results. If pupils require further, in depth evaluation, the teacher or nurse is asked to formally refer the child to the I.U. Itinerant Speech Program.

Hearing/Vision:

Teacher and/or nurse detects a problem. District may call I.U. for a Hearing Therapist or Teacher of the Visually Limited to assist or confirm a screening of hearing and/or vision.

OR - without I.U. assistance:

Referral:

Teacher or nurse completes a Request for Diagnostic and Consultative Services.

Teacher and/or nurse completes a hearing or vision referral form after consultation with the principal.

A telephone call is made to the parents of the child informing them of the district's intent to refer the child to the Intermediate Unit for further evaluation. Since a "Permission to Evaluate" must be signed, parents are asked if they can visit the school to indicate their permission to evaluate the child.

In cases where the parents are unable to visit the school the school nurse, guidance counselor, psychologist, or home-school visitor makes a visit to the home of the child to receive the written permission to evaluate.

Referral, including the signed permission to evaluate, is then routed to the District Administrative Office where:

1. A photo-copy is made for the district's files.
2. Or the referral is logged.
3. The referral and permission to evaluate are routed to the Intermediate Unit Office.
4. Indication (i.e. a weekly list of referrals sent) is generated to the principals for notification to the teacher (nurse) that a referral has been made. This completes the cycle to the initial referrent.

Follow-Up:

After the pupil is evaluated the Intermediate Unit personnel will complete the necessary paperwork and involve parent participation in the program development as needed. The district will receive a "Follow-Up on Referral for Itinerant Program", the information from which (see attached sample) is transferred to the district tracking file.

At least monthly the district sends a list of outstanding referrals of over 30 days to the Intermediate Unit for explanation of the delay completing the pupil referral. (This is helpful as we have experienced some losses determined to be in the mail system. Also infrequently, a referral may be misfiled--by district or Intermediate Unit personnel. This cross-check procedure will help eliminate the "thought-to-be referral pupil" whose referral has not been processed and for whom an evaluation is not planned.)

We welcome any additional feedback that you wish to offer in further streamlining this procedure which meets the mandates of P.L. 94-142 while processing large numbers of pupils into the itinerant programs.

RAG:khp

Enclosures
1. Diagnostic and Consultative Services
2. Permission To Evaluate
3. Hearing Referral
4. Vision Referral

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Speech/Hearing/Vision Itinerants

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Another Step To Improvement

DATE: March 7, 1978

As you have seen, the process for placing pupils in instructional itinerant programs has improved over the last few months as we worked the bugs out of the system. Some of the existing delay is due to itinerant absences, snow days, pupil absences, and time spent awaiting reports from external agencies that are necessary for the completion of the evaluation. Little can be done about these delays, but an existing delay which we can change is the priority that is put on evaluation of pupils after notification from the office is made to the itinerants. I realize that each of you is interested in providing maximum instructional time to pupils on your caseload. Priority to these pupils cannot supercede priority to new referrals, however. The law plainly indicates that priority is to be extended to the unserved and then the underserved.

Effective March 13, 1978, please evaluate and report the findings/status of each referral within one week of the notification from the office. This "notification" may be the action request which will move the case along through the office paperwork, or it may be an indication of why the evaluation has not been completed. Weekly status reports are requested until the action request indicates that the evaluation has been completed.

If you have been evaluating new referrals as they come in and submitting the action request form to the office within a week, there will be no change in your operation. If you have delayed the evaluations, for whatever reason, you will need to change your priorities to accomplish the evaluations within a week.

I am open to your feedback regarding this procedure.

RAG:khp

cc: Mr. Howard Eliason
Mr. Alfred Stirba, III
Ms. Cathleen Rannels
Mrs. Barbara Miller

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Speech, Hearing and Vision Personnel

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Quality IEP's

DATE: March 9, 1978

In refining our plans for IEP's for the 1978-1979 school year, we are interested in determining your input as to what you feel are the essential and desirable components of a quality IEP.

For the March 15, 1978 Vision Meeting, or the March 16, 1978 Speech and Hearing Meeting, please put your ideas on paper and give them to Kathy Rannels or Barb Miller prior to the beginning of the staff meeting, and come prepared to discuss this topic.

We hope to have some good input which will contribute to even better IEP's in the future.

RAG:khp

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Quality IEP

1. Summary Document -Working Document

   Serve to emphasize or highlight the year's educational program - a framework.

2. Instructional Plan

   Contain information useful for providing therapy session/classroom instruction.

   Goals and objectives should describe skills and knowledge student will acquire.

   Curriculum based.

3. Integrated Document

   Continuity from present educational levels to appropriate goals and objectives.

4. Communication Carrier

   Avoid educational jargon - understandable to parents and other professionals.

Front Page

1. Statement of educational services to be provided:

   all special educational programs required to meet unique needs.

   any special media/materials - if supplied by Intermediate Unit Number 20.

2. Dates - initiation and duration - realistic

   (can be month - not need exact date) can be written in such a way that it places contingencies or whether or not student makes slower or faster than expected progress

   present date

   review date - date within one year of development

3. Extent to which child will participate in regular education:

   ______________________ is participating in regular education with the addition of speech therapy, vision services, hearing therapy.

______________________________ is not participating in regular education at the present time.

Place on bottom primary assignment line.

Present Education Levels

1. Instructionally relevant data in each instructional area.
2. Any other data - instructionally relevant to overall educational plan - go beyond test scores. Do not list the IQ-incicates ability not present educational level.
3. Highlight qualitative and descriptive information about student's skills.
4. Note source of information - observations, anecdotal records, teacher-made tests, informal or formal tests.
5. Describe upper limits of abilities and steps where skills begin to break down.
6. Include what student has learned and what needs to learn next.

Annual Goal

1. What student is expected to learn - broad target for program - the expected educational growth as the result of each short-term objective.
2. It should be highly related to supporting assessment information.

Subcategorize instructional areas when necessary (ex., Reading - sight word vocabulary, main idea, sequence. Speech - voice, auditory discrimination, articulation, language).

Short-Term Objective

1. Consider student's learning style.
2. Number of these depends upon steps needed to achieve goal.
3. Sequence objectives.
4. Write in behavioral terms.

Evaluation Procedures

1. Use criterion referenced measures when applicable - objective rather than subjective.

Adequately describe - allow other educators to construct and administer same measures.

3. If applicable list number of consecutive sessions and number of trials.

Criteria

How well learner must perform task to demonstrate mastery - percentage.

APPENDIX H

SAMPLE FORMS USED IN NEW PROCEDURES

Page

Request for Speech Screening/Consultation.................... 272

Speech, Hearing, Vision Referral/Dismissal Log (Tracking Sheet)... 273

Speech Therapy Referrals - page from booklet distributed to district personnel......................... 275

Request for Diagnostic and Consultative Services - form used for speech referrals................. 276

Permission to Evaluate.. 278

Hearing Referrals - page from booklet distributed to district personnel......................... 280

Hearing Referral... 281

Vision Referrals - page from booklet distributed to district personnel......................... 283

Vision Referral.. 284

Incomplete Referral - memorandum to district personnel.. 286

Note sent to parents with all enrollment, review, and dismissal information........................ 287

Request for parent participation in an I.E.P. planning conference............................... 288

Page

Letter to parents introducing them to program objectives concept.......... 289

Record of attempts to contact parents for I.E.P. conferences.......... 290

Program Planning Conference Response.......... 291

Photocopy of Individual Education Program plan format, page one of I.E.P. packet reduced to 75% of original size.......... 292

Photocopy of Present Educational levels format, page two of I.E.P. packet, reduced to 75% of original size.......... 293

Photocopy of Instructional Objectives, page three of I.E.P. packet, reduced to 75% of original size.......... 294

Prehearing conference response form - page from booklet discribes use of form of same name.......... 295

Prehearing Conference Response.......... 296

Response to Parent Initiated Request for Evaluation or Due Process.......... 298

Letter of non-exceptionality.......... 299

Approved notice of recommended change in assignment ("Due Process") for enrollment and dismissals in the speech therapy program.......... 300

Notice of Recommended Assignment ("Due Process") used for all special education programs other than speech therapy.......... 301

Page

Follow-up on Referral for Itinerant Program memorandum to advise district personnel of status of pupil.................... 306

Reevaluation statement - page from booklet distributed to district personnel................. 307

Notice of Intent to Conduct a Reevaluation................... 308

"Due Process" notification - inter-office form to convey status change to itinerant personnel............... 309

Therapist's/Teacher's Record of Pupil Tracking............... 310

Action Request - First Edition 9/77.......................... 311

Action Request - Second Edition 2/78......................... 312

Action Request - Third Edition 5/78.......................... 313

Action Request - Fourth Edition 6/78......................... 314

Form used at Kindergarten Registration in districts: encourages early district referrals to Intermediate Unit Speech and Hearing Programs....................................... 315

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

SPEECH THERAPY PROGRAM

Request for Speech Screening/Consultation

Instructions: Complete this form and return to Intermediate Unit Speech therapist serving your school.

TEACHER'S NAME____________________ GRADE:____________________

SCHOOL BUILDING____________________ DISTRICT:____________________

I would like to have a speech screening for the following pupil(s) in my classroom. I understand that the speech therapist will consult with me regarding my specific concern(s) and the findings.

PUPIL'S NAMES	DATE SCREENED	DISPOSITION

____
Teacher's Signature

____
Date

____
Therapist's Name

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Speech, Hearing, Vision
Referral/Dismissal Log

(Pupil's Last Name) (First Name)

(Address) (City) (State) (Zip)

(Parent, Guardian) (Home Telephone)

District School Grade

Date of Screening ____________ Therapist/Teacher ____________

Date Referral Received ____________

Date of Evaluation ____________ Therapist/Teacher ____________

☐ NO itinerant instruction indicated. Letter to parents ________ (Date).

☐ Itinerant instruction indicated. Letter inviting parents to IEP Conference was sent on ________ (Date).
(Also notify IEP Coordinator)

....

☐ Response to IEP Conference invitation received ________ (Date).

- ☐ Parents wish to participate in an IEP Conference. (Notify IEP Coordinator)
- ☐ Parents do not wish to participate in an IEP Conference (Notify IEP Coordinator)

☐ No response to IEP Conference invitation within 10 days. (Notify IEP Coordinator)

....

☐ IEP Conference held on ________ (Date).

- ☐ Parents do not approve of the IEP and wish to have a pre-hearing conference (Notify Program Supervisor)
- ☐ Parents approve of IEP. Due process was signed by parents at conference.
- ☐ Parents approve of IEP. Due process was given to parents at the conference, to be returned to I.U. within 5 days.

☐ Due process form for enrollment sent on ________ (Date) ☐ To home

☐ To district

Program Entry or Revision

☐ Due process signed and received on ______ (Date). (Notify therapist/teacher)

☐ Due process not returned within ten days ______ (Date). (Notify therapist/teacher)

☐ Due process returned ______ (Date). Parents do not approve of program/placement and desire a pre-hearing conference. (Notify Program Supervisor)

……

Dismissal From Program

☐ Letter inviting parents to "Dismissal Conference" sent ______ (Date).

……

☐ Response received ________.

  ☐ Parents wish to participate in a conference. (Notify therapist/teacher)

  ☐ Parents do not wish to participate in a conference. (Notify therapist/teacher)

☐ No response received within 10 days. (Notify therapist/teacher)

……

☐ Conference held on ______ (Date).

  ☐ Parents do not approve of dismissal and wish pre-hearing conference. (Notify Program Supervisor)

  ☐ Parents approve of dismissal.

    ☐ Due process was signed at conference.

    ☐ Due process given to parents at conference, to be mailed to the I.U. within 5 days.

☐ Due process sent on ________. ☐ To home ☐ To district

☐ Due process signed and received on ______ (Date). (Notify therapist/teacher) to dismiss.

☐ Due process not received within 10 days. (Notify therapist/teacher).

☐ Due process received ________ (Date). Parents do not agree to dismissal and desire pre-hearing conference. (Notify Program Supervisor)

SPEECH THERAPY REFERRALS

There is a relatively high incidence of pupils with speech problems in the public schools and there are frequently questions in teachers' minds regarding appropriateness of some referrals. Because of these factors, a general screening/consultation process may be appropriate prior to formal referral. The form is entitled "Request for Speech Screening/Consultation." Teachers will be expected to complete the form and return it to the speech therapist serving in that building. A speech screening and consultation meeting will then be conducted. If there is a necessity for a full evaluation of the pupil, the teacher should initiate the "Request for Diagnostic and Consultative Services" form and follow the procedures outlined under the section in this manual entitled "DISTRICT REFERRALS," with the exception that a modified Due Process Form (Yellow) will be utilized and will be sent by the Intermediate Unit in order to expedite placement and tracking.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

REQUEST FOR DIAGNOSTIC AND CONSULTATIVE SERVICES

Instructions: Please complete and submit to the attention of Jack M. Superka, Supervisor of Diagnostic and Consultative Services, at the above address.

This pupil previously received an I.U. #20 service(s): _____Yes _____No

Type of Service______________________________ Date:______________________________

Pupil's Name:______________________________ Birthdate:____________ Case #:____________

Pupil's Address:______________________________ City/Town____________ Zip:____________

School District:________________ School________________ School Telephone: ( )________

Grade:_____ Teacher:______________ Teacher is available for Conference: Day______Time:_____

Father:____________________Address____________________Telephone: ( )__________

Mother:____________________Address____________________Telephone: ( )__________

Step or Foster:____________________Address____________________Telephone: ( )__________

Pupil is ___1305 _____1306 (To be completed by an administrator)

SPECIFY LEARNING STYLES/BEHAVIORAL CHARACTERISTICS UPON WHICH THIS REFERRAL IS BASED:

SPECIFY ACTION(S) TAKEN BY DISTRICT PERSONNEL TO ALLEVIATE THE PROBLEM:

CNIU-121-1a

RESULTS OF STANDARDIZED TESTING FROM PUPIL RECORD IN DISTRICT

INTELLIGENCE

Test Name: Date: CA MA IQ Person Testing

ACHIEVEMENT

Test Name: Date: Voc.: Gr. Equiv.: Rdg. Comp.: Gr. Equiv.: %ile

Math Concepts: Gr. Equiv: %ile: Math Reasoning: Gr. Equiv.: %ile:

INFORMATION FROM SCHOOL NURSE

Health & Physical Status: ____

Irregularities: ____ Vision ____ Speech ____ Hearing ____ Other (Specify) ____

____ Taking Medication (If checked list name): ____

Parents have been made aware of school concerns by:

____ Conference with teacher/administrator ____ Phone ____ Home Visit ____ Mail

Date(s) of most recent contact(s): ____

Other district personnel involved in case:

Title	Name	Date
____ Reading Consultant/Title I Reading		
____ Principal		
____ Psychologist		
____ School Nurse		
____ Guidance Counselor		
____ Curriculum Specialist		
____ Speech/Lang. Therapist		
____ Other (e.g. peer tutor, math teacher, etc.)		

Summarize Involvement: ____

Agency/Community professionals involved in case:

Source	Name	Date
____ Physician/Specialist		
____ Children's Bureau		
____ MH/MR		
____ Probation Office		
____ Private School		
____ Tutor		
____ Other (Specify)		

Signature: ____ Date: ____
Principal or Superintendent

District Contact Person for this Referral: ____ Telephone: ( ) ____

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Dear ____:
Complete name of parent, guardian, surrogate parent

The Colonial Northampton Intermediate Unit Number 20 requests permission for a member(s) of their professional staff to evaluate your son or daughter ________________
Full
________________________ . The primary purpose for the evaluation is to assure that
Name of Student
________________________ is receiving an appropriate program of education.
First Name of Student

The Intermediate Unit's request to have ________________________ evaluated is based
First Name of Student
on the following reasons: ____
____
____
____
____
____
____

The plan for evaluation includes:

TYPE OF PROCEDURE/TEST	APPROXIMATE DATE OF EVALUATION

CNIU-170

You have the right to see and have explained all the information contained in your son's or daughter's educational record. To arrange a date to review the student's record and/o[illegible]o discuss this proposed referral with school personnel, please contact: ______________________ Name of Staff

____.
Member, Address, Phone Number and Hours of Availability

If all of your questions are not answered by reviewing the student's educational records and during a conference with Intermediate Unit personnel, you may wish to meet with the evaluator(s) to discuss evaluation procedures. A request to meet with the evaluator(s) should be directed to the contact person listed above.

If you AGREE to an evaluation as outlined above, please sign here:	If after reviewing your child's school records and having had a conference with school personnel, you DO NOT AGREE to an evaluation as outlined above, please sign below:
______________________________ Signature of parent, guardian, surrogate parent or student	______________________________ Signature of parent, guardian, surrogate parent or student
______________________________ Date	______________________________ Date
______________________________ Signature of parent, guardian, surrogate parent or student	______________________________ Signature of parent, guardian, surrogate parent or student
______________________________ Date	______________________________ Date

You also have a right to request a hearing concerning this proposed evaluation.

Please return this request in the enclosed envelope within ten (10) days of your receipt. Thank you for your cooperation.

____
Signature of School Official Requesting Permission

____
Date

HEARING REFERRALS

Permission to Evaluate

Documents Needed:

1. Hearing Referral (Green Page)
2. IEP Explanation Letter (Beige Pages)

When a student is thought to be in need of Hearing Therapy, the District may initiate the IEP process by referring the student to the Speech and Hearing Program for diagnosis and evaluation. The District must seek written permission from the parent, etc. before the evaluation is performed. This permission may be sought at a meeting or by letter.

No Response

If the District receives no response from the parent, the District should follow-up by telephone contact or conference. If follow-up procedures fail to gain response, the District has two options:

1. Request a hearing to determine whether to proceed with the proposed evaluation.
2. Cancel plans to conduct the evaluation.

Disapproval

Three options:

1. Request an immediate conference to further explain the District's concerns.
2. Request a hearing.
3. Cancel plans to evaluate.

Approval

If parent approves this proposed evaluation, the District should complete the referral as planned, submitting the Hearing Referral form, complete with parental signature to the Intermediate Unit.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

HEARING REFERRAL

Instructions: Please complete and submit to the attention of Robert A. Green, Supervisor of Special Education, at the above address.

This student previously received Intermediate Unit instruction service: ____Yes ____No

If Yes, what type of instruction or service ____________ Date ____________

Name of Student: ____________ Birthdate: ____________

Address: ____________ Telephone Number: ____________

School: ________ Grade: ________ Teacher: ____________

District of Residence: ____________ Teacher is available for conference:

Day ________ Time ________

District of Attendance: ____________

Nurse: ____________

Primary language in the home

___English ___Other (Specify) ____________ Father: ________ Mother: ________

Not[illegible]ble Hearing Difficulties:

____

____

Other Impairments/Concerns: ____________________________

Person Initiating Referral: ____________

Hearing Acuity: Date of Examination: ________ Examiner: ____________

From School Examination:

Without hearing aid:

	250	500	1000	2000	4000	8000
Right						
Left						

Wears Hearing Aid:

Yes:___ No:___

Latest Test Data (from school records):

Intelligence: Date:________ Test:________ IQ-Lang.:________ Non-Lang.:________

Achievement: Date:________ Test:________ Av. Read.:________ Av. Arit.:________

Pupil is_____1305 _____1306

Date[illegible] Referral: ____________ Signature: ____________
School Superintendent or Assignee

(Reverse side must be signed by parent or guardian to effect referral)

CNIU-122 (8/77)

AUTHORIZATION FORM

To be explained to the parent or guardian:

Your child is being referred to the Intermediate Unit Number 20 Speech and Hearing Program because of a possible hearing loss which may interfere with his/her education. Your permission is required to allow further evaluation.

If the results of the evaluation indicate that the student is eligible for a special education program and/or service, we will ask your assistance in preparing an individualized education program for your son or daughter.

You have the right to see and have explained all the information contained in your son's or daughter's school record. To arrange a date to review the student's record and/of to discuss this proposed referral with school personnel, please contact: ____________________
Name of Staff
____
Member, Address, Phone Number and Hours of Availability.

If all of your questions are not answered by reviewing the student's educational records and during a conference with school personnel, you may wish to meet with the evaluator(s) to discuss evaluation procedures. A request to meet with the evaluator(s) should be directed to the contact person listed above.

You also have a right to request a hearing concerning this proposed evaluation. Please return this request in the enclosed envelope within ten (10) days of your receipt. Thank you for your cooperation

I hereby authorize Intermediate Unit Number 20 to receive this referral information, to evaluate my child's hearing, and to release a report of the findings and recommendations to the school personnel. The approximate date of this evaluation will be ____________________.

If you agree to an evaluation as outlined above, please sign here:

____
Signature of parent, guardian, surrogate parent or student

____
Date

If after reviewing your child's school records and having had a conference with school personnel, you do not agree to an evaluation as outlined above, please sign below:

____
Signature of parent, guardian, surrogate parent or student

____

VISION REFERRALS

Permission to Evaluate

Documents Needed:

1. Vision Referral (Gray Pages)
2. IEP Explanation Letter (Beige Pages)

When a student is thought to be in need of instruction for the visually limited, the District may initiate the IEP process by referring the student for evaluation. The District must seek written permission from the parent, guardian, or surrogate parent, and when appropriate, the student before the evaluation is performed. This permission may be sought at a meeting or by letter.

No Response

If the District receives no response from the parent, the District should follow up by telephone contact or conference. If follow-up procedures fail to gain response, the District has two options:

1. Request a hearing to determine whether to proceed with the proposed evaluation.
2. Cancel plans to conduct the evaluation.

Disapproval

Three options:

1. Request an immediate conference to further explain the District's concerns.
2. Request a hearing.
3. Cancel plans to evaluate.

Approval

If the parent approves the proposed evaluation, the district should complete the referral as planned, submitting the Vision Referral Form, complete with parent signature to the Intermediate Unit.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

VISION REFERRAL

nstructions: Please complete and submit to the attention of Robert A. Green, Supervisor of Special Education, at the above address.

This student previously received Intermediate Unit Number 20 instruction or service:
____Yes ____No If yes, what type of instruction or service____________
Date__________

Name of Student:__________ Birthdate:__________

Address:__________ Telephone:__________

School:__________ Grade:__________ Teacher:__________

District of Residence:__________ Teacher is available for conference: Day______
Time______

District of Attendance:__________ Father:__________ Mother:__________

Primary language in the home: ____English ____Other (Specify)__________

Noticeable Visual Difficulties__________

Other Impairments/Concerns:__________

Person Initiating Referral__________

Visual Acuity: Date of Examination__________ School Nurse__________

From School Examination:

Without Correction: Right Eye______ Left Eye______ Both______

With Correction: Right Eye______ Left Eye______ Both______

Comments:__________

From eye specialist's report received by school (if available):

Date of Examination__________ Eye Specialist__________

Without Correction: Right Eye______ Left Eye______ Both______

With Correction: Right Eye______ Left Eye______ Both______

Comments:__________

pils: ______1305 ______1306

Date of Referral:__________ Signature__________
School Superintendent or Assignee

(Reverse side must be signed by parent or guardian to effect referral)
CNIU-118 (2/78)

AUTHORIZATION FORM

To be explained to the parent or guardian.

Your child is being referred to the Intermediate Unit Number 20 Vision Program because of a possible visual limitation which may interfere with his/her education. Your permission is required to allow further evaluation.

If the results of the evaluation indicate that the student is eligible for a special education program and/or service, we will ask your assistance in preparing an individualized education program for your son or daughter.

You have the right to see and have explained all the information contained in your son's or daughter's school record. To arrange a date to review the student's record and/or to discuss this proposed referral with school personnel, please contact:

____

Name of Staff Member, Address, Phone Number, and Hours of Availability

If all of your questions are not answered by reviewing the student's educational records and during a conference with school personnel, you may wish to meet with the evaluator(s) to discuss evaluation procedures. A request to meet with the evaluator(s) should be directed to the contact person listed above.

You also have a right to request a hearing concerning this proposed evaluation Please return this request in the enclosed envelope within ten (10) days of your receipt. Thank you for your cooperation.

- -

I hereby authorize Intermediate Unit Number 20 to:

1. Receive this referral information.
2. Receive the eye specialist's report.
3. Consult with school personnel and review school records.
4. Evaluate my child's vision.
5. Conduct an orientation and mobility evaluation, (if necessary this may include travel to off school areas. Transportation to be provided by the O & M specialist).
6. Conduct achievement and psychological testing as necessary.
7. Release a report of the findings to the school personnel.

The approximate date of this evaluation will be: ____________________

Eye Specialist to be contacted for report: ____________________

Eye Specialist's Name

____ Please check only if no eye specialist has been involved.

____

Address

____

Telephone Number

If you agree to an evaluation as outlined above, please sign here:

____

Signature of parent, guardian, surrogate parent or student

____

Date

If after reviewing your child's school records and having had a conference with school personnel, you do not agree to an evaluation as outlined above, please sign below:

____

Signature of parent, guardian, surrogate parent or student

____

Date

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green
Supervisor of Special Education

SUBJECT: Incomplete Referral

DATE:

In order to initiate processing of your referral on ______________________________,
Student's Name

we need further information. We are returning the referral for the following:

_____completion of referral form

_____parent authorization

_____district authorization

_____RPM and fourteen-page evaluation

_____psychiatric evaluation

_____previous school records

_____other (see comment below)

Please return the attached referral form with the requested information.

RAG:khp

Enclosure

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Dear Parent/Guardian:

The information presented on the enclosed forms is in compliance with the Pennsylvania Department of Education plan for special education and the Federal Education For All Handicapped Act (Public Law 94-142).

Please feel free to contact your child's school or the Intermediate Unit Office (215) 759-7600 or (717) 992-4145 if you have any questions regarding the enclosed information.

Robert A. Green
Supervisor of Special Education

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

REQUEST FOR PARENT PARTICIPATION IN A PROGRAM PLANNING CONFERENCE

Dear ________________________________:
Student, parent, guardian or surrogate parent

We wish to
( ) revise the Individualized Education Program (IEP)
( ) plan an initial Individualized Education Program (IEP)

for ________________________________ and encourage you to join with educational
Student's Complete Name
personnel in a conference for this purpose. Your participation is desired so that you may be fully informed concerning the ____________________ program and/or placement revisions we feel may be necessary.

You, as the student, parent, guardian or surrogate parent, may decide not to participate in revising this plan at this time by signing below. If you do not respond to this letter within 10 days, we will hold a program planning conference in your absence. A copy of the IEP will be sent to you.

If you have any questions, please call: ________________________________
(Contact Person)
________________________________.
(Telephone Number)

( ) I would like to participate in planning or revising the student's individualized education program. I can be reached at the following telephone number:

Phone Number ________________ Address ________________________________

Time of Day ________________ ________________________________

( ) I do not desire to participate in the planning or revising of the student's individualized education program.

____________ ____
Date Signature of student, parent, guardian or surrogate parent

____________ ____
Date Signature of student, parent, guardian or surrogate parent

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Dear Parents:

Should your child, ______________________________, be found by the evaluation team
Child's Name

to be exceptional, we will be asking you to help us design an individual educational program plan (IEP) for your child. This plan will include what services will be provided and what goals your child will hopefully attain throughout the year. If you have ideas or concerns, you need to let us know.

Below you will find some examples of annual goals and short-term objectives:

Example 1

Annual Goal: Development of arithmetic concepts skills
Short-term Objective: Student will add, subtract, multiply, and divide fractions with 90% accuracy.

Example 2

Annual Goal: Development of self-help skills
Short-term Objective: Student will dress self with clothing that uses buttons and zippers.

Again, these are just examples! What do you think your child needs to learn?

Annual Goal: ____

____

____

Annual Goal: ____

____

____

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Record of Attempts to Contact Parent

Child's Name ______________________ Telephone # ____________________

Parent, Guardian or Surrogate Parent ______________________________

Date	Method	Person Making Contact

PROGRAM PLANNING CONFERENCE RESPONSE

______________________ (Student's Name)

Dear ______________________:

The following persons have participated in the educational program planning conference:

I. Program Planning Conference (Name) (Date)

LEA Representative: ______________________ __________

Teacher: ______________________ __________

Other: ______________________ __________

Other: ______________________ __________

Other: ______________________ __________

Student: ______________________ __________

Parent, Guardian or Surrogate Parent: ______________________ __________

Parent or Guardian: ______________________ __________

II. Instructions

If you approve of the educational placement and program recommended for the student, please check the space provided for approval and sign your name.

Once you indicate approval, the program will be implemented.

( ) I approve of the educational program and the IEP which is recommended.

______________________ (Signature) __________ (Date)

If you disapprove of the educational placement or program recommended for the student, you may request a pre-hearing conference to resolve any differences by checking the space provided below for disapproval and signing your name.

( ) I disapprove of the educational program and/or IEP which is recommended and request a pre-hearing conference.

______________________ (Signature) __________ (Date)

Once you indicate disapproval, a pre-hearing conference will be scheduled.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20

299 INDUSTRIAL PARK ROAD • P. O. BOX 179 • NAZARETH, PA. 18064

INDIVIDUALIZED EDUCATION PROGRAM PLAN

Student's Name: ____________________ Grade/Program: ____________________

Birth Date: ____________________ Teacher(s): ____________________

Present Date: ____________________ School: ____________________

PRIMARY ASSIGNMENT(S)	DATE STARTED	EXPECTED DURATION OF SERVICES	SPECIAL MEDIA OR MATERIALS

REASON FOR ASSIGNMENT(S): ____________________

SERVICES	DATE STARTED	EXPECTED DURATION OF SERVICES	SPECIAL MEDIA OR MATERIALS

Date for review and/or revision of the INDIVIDUALIZED EDUCATION PROGRAM PLAN: ____________________

Person responsible for the maintenance and implementation of the INDIVIDUALIZED EDUCATION PROGRAM PLAN: ____________________

It is important to note that while the services indicated shall be provided for your child, it cannot be guaranteed that the progress indicated will always be met.

OFFICE COPY

DISTRIBUTION:
1. WHITE COPY TO OFFICE
2. YELLOW COPY TO TEACHER
3. PINK COPY TO PARENT

[illegible]

DISTRIBUTION:
1. WHITE COPY TO OFFICE
2. YELLOW COPY TO TEACHER
3. PINK COPY TO PARENT

PRESENT EDUCATION LEVELS

Directions: Using as many pages as necessary, describe the student's present educational levels in appropriate curricular areas. These may include, but are not limited to:

- Academic Achievement
- Emotional Maturity
- Self-Help Skills
- Social Adaptation
- Pre-Vocational Skills
- Vocational Skills
- Psychomotor Skills
- Other:

OFFICE COPY

INSTRUCTIONAL OBJECTIVES

Instructional Area: ____________________

Annual Goal: ____________________

SHORT-TERM OBJECTIVE	EVALUATION OF INSTRUCTIONAL OBJECTIVES		INSTRUCTIONAL METHODS MEDIA/MATERIAL TITLE(S) (OPTIONAL)
	TESTS, MATERIALS, EVALUATION PROCEDURES TO BE USED	CRITERIA OF SUCCESSFUL PERFORMANCE	

DISTRIBUTION:
1. WHITE COPY TO OFFICE
2. YELLOW COPY TO TEACHER
3. PINK COPY TO PARENT

OFFICE COPY

PRE-HEARING CONFERENCE RESPONSE FORM

Directions

If the parents and school district have been unsuccessful in reaching agreement concerning the student's program and placement at a program planning conference, they may request a pre-hearing conference. The pre-hearing response form is to be used at the termination of this second conference. Parents are to indicate whether they approve of the program and placement or whether they disapprove and wish to request a hearing.

P. O. Box 179
Nazareth, Pennsylvania 18064

____
Date

PRE-HEARING CONFERENCE RESPONSE FORM

The following persons have participated in the educational PRE-HEARING CONFERENCE (list names and positions of each person who participated in the conference):

Following are the issues which were resolved/not resolved at the PRE-HEARING CONFERENCE:

II. INSTRUCTIONS

If you approve of the educational placement and program recommended for the student, please check the space provided for approval and sign your name. If revisions were made in the recommended assignment and program as a result of the conference, you will receive a written notice describing the revisions.

Once you indicate approval, the program will be implemented.

If you disapprove of the educational placement or program recommended for the student, and you wish to request a hearing to resolve any differences, check the space provided for disapproval and sign your name. To request a hearing, send in your request within 10 days of the date you received this.

If you indicate disapproval, the program will not be implemented. No change in assignment will occur until the decision of the hearing officer is received. Please review the notice which was previously sent to you. It contains an outline of hearing procedures.

If you do not respond within 10 days of the date of the PRE-HEARING CONFERENCE, it will indicate that you approve the educational placement and program that was discussed at the conference and any revisions which you received. No response also indicates that you waive the right to a hearing at this time.

I. RESPONSE

Please check one and sign.

( ) I approve of the educational placement and program which is recommended.

( ) I do not approve of the educational placement and program which is recommended. I therefore request a hearing.

Date ______ Signature of Student, Parent/Guardian or Surrogate Parent

Date ______ Signature of Parent/Guardian

IV. OPEN OR CLOSED HEARINGS

If you requested a hearing, you have the right to decide whether it will be open to the public or closed and private.

If the hearing is closed and private, then only you, the student (if appropriate), your representative(s), school officials, other witnesses, the hearing officer and the recorder will be present. When a hearing decision is made, it will only be released in an identifiable form to you and to those persons who must implement it. If you choose to have a closed hearing, you may, nevertheless, designate friends or observers whom you wish to be allowed to remain present.

If the hearing is open to the public, anyone may attend it. When a hearing decision is made, it may be released with the student's name and will be available to interested persons. The transcript, letters, documents, reports, test results and other material from the hearing will not be released to the public beyond the extent to which they appear in the decision.

Please check one and sign.

( ) I wish this student's hearing to be open to the public.

( ) I wish this student's hearing to be closed and private.

Date ______ Signature of Student, Parent/Guardian or Surrogate Parent

Date ______ Signature of Parent/Guardian

NOTE: Unless you indicate otherwise, the hearing will be a closed hearing.

RESPONSE TO PARENT-INITIATED REQUEST FOR EVALUATION OR DUE PROCESS

Address block giving the name and address of the student, parent, guardian or surrogate parent.	Address block identifying the name, title, school and school address of the school official sending this letter (if the letter is typed on letterhead paper, this block may not be necessary).

Dear ____:
Student, parent, guardian or surrogate parent

This letter confirms that you are :

( ) requesting an evaluation
or
( ) initiating due process procedures
concerning the educational placement and program for ______________________
Name of Student

____.
Present Educational Program

The school district will prepare written evidence concerning the appropriateness of the student's educational program. This material will be available to you or your representative. A conference will be scheduled to discuss your concerns.

Should the school district feel it necessary to conduct an evaluation prior to this conference, you will be notified. If you have had an outside evaluation completed, please bring the information to the conference.

If the conference results in recommended revisions to the student's educational placement and program, you will be notified of the revisions. Following the conference, you will be given the opportunity to request a hearing.

Sincerely,

____
Signature of School District Superintendent

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

DATE:____________________

TO:

Dear____:
Complete name of parent, guardian, surrogate parent

The Colonial Northampton Intermediate Unit Number 20 in cooperation with________________ Name of School District ________________ has completed an evaluation of your son or daughter, ________________ full name of student ________________ to assure that he/she has an appropriate program of education.

Review of the evaluation results indicate that______________________ Student's first name is not an exceptional student and is not in need of a special education program or service.

You have a right to review all data collected on your son or daughter. Also, you may request a program planning conference to discuss the findings of the evaluation and the student's current program needs.

To schedule a conference to review or obtain the student's records, please contact

____
Name of staff member, address, phone number and hours when he/she is available.

If after reviewing your child's school records and having had a program placement conference you still believe your child to be exceptional, you will be given the opportunity to request a hearing. To request a hearing please contact the district contact person listed above.

____
Signature of District Superintendent

____
Date

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

DATE: ______________

TO:

Dear ______________________________:

We recommend that ______________________________

☐ be dismissed from special instruction in speech.

☐ receive special instruction in speech in addition to his/her education program.

A copy of the recommendation is attached. If you approve of the attached program, please check the appropriate box at the bottom of this page and return this form in the enclosed stamped envelope. We will then implement this change.

If you would like to further discuss this proposed program, please check the appropriate box at the bottom of this page and return this form in the enclosed stamped envelope.

If you request a pre-hearing conference, we will provide you with a letter which explains your right to request a hearing if you are dissatisfied with the outcome of this conference.

If this form is not returned by ______________________________, the attached program will be implemented.

____
(Speech or Language Clinician)

Robert A. Gunn
____
(Supervisor of Speech and Hearing)

☐ I approve the recommended program and do not wish to request a pre-hearing conference or a hearing.

☐ I do not approve the recommended placement. I request a pre-hearing conference.

______________ (Date) ______________________________ (Signature parent or guardian)

______________ (Date) ______________________________ (Signature parent or guardian)

NOTICE OF RECOMMENDED ASSIGNMENT

Name and Address of Parent/Guardian,
Student or Surrogate Parent:

____

____

____

____
Date

Dear ____:

This is your notice of the recommended educational program and placement for

____.
Name of Student and Present Educational Status

If you approve this recommendation, sign and indicate this below.

An Individualized Education Program has been developed for this student. A copy of this program is attached.

Before this recommendation is implemented, you have the right to request a pre-hearing conference to discuss, with school personnel, the recommended educational program and placement. If you disagree with the outcome of this conference, you may request a formal hearing to contest the implementation of the recommendation.

If you wish to participate in a pre-hearing conference, sign and indicate this below; then return this page to the address below within 10 days if you received the notice by certified mail, or within 5 days if the notice was given to you in person.

If you do not return this page within the time specified above, it will indicate you approve the recommendation and you do not wish to request a hearing at this time.

For further information contact: ____

____

____
Local School District and Responsible Official

____
Signature of School District Superintendent

- -

( ) I approve the recommended placement and program and do not wish to request a pre-hearing conference or a hearing.

( ) I do not approve the recommended placement and program. I request a pre-hearing conference.

____________ ____
Date Signature of Parent/Guardian, Student or Surrogate Parent

____________ ____
Date Signature of Parent/Guardian

Following is the recommended educational assignment for the student:

( ) 1. Regular class (24 Purdon's Statutes §5-501)

( ) 2. Regular class in a regular school with supporting services (24 Purdon's Statutes §13-1372(2))

( ) 3. A school district special education program in a regular school (24 Purdon's Statutes §13-1372(3))

( ) 4. A school district special education program in a special facility (24 Purdon's Statutes §13-1372(3))

( ) 5. An intermediate unit program in a regular school (24 Purdon's Statutes §13-1372(4))

( ) 6. An intermediate unit program in a special facility (24 Purdon's Statutes §13-1372(4))

( ) 7. An approved private school program (24 Purdon's Statutes §13-1372)

( ) 8. A state school program (24 Purdon's Statutes §13-1372(5))

( ) 9. An approved out-of-state program (24 Purdon's Statutes §13-1372(5))

( ) 10. An intermediate unit program of instruction in the home (24 Purdon's Statutes §13-1372(3))

( ) 11. Other. Specify: ____

Educational assignments 2-10 are listed in priority order for handicapped school-aged persons. This priority order shall be followed for the handicapped, except where deviation meets the needs of the student or the purpose of the regulations (22 Pa. Code 13.11(D)).

Educational assignments 2-6 above are listed in priority order for gifted and talented school-aged persons.

If the student is mentally disabled, mentally retarded or emotionally disturbed, he/she is entitled, under the Pennsylvania Mental Health and Mental Retardation Act of 1966 and the Pennsylvania Mental Health Procedures Act of 1976, to the services of a local MH-MR center (name and address on page 4) for an independent medical, psychological and educational evaluation.

At any time you have the right to be represented by the person of your choice and to obtain an independent evaluation.

At any time you will be given reasonable access to all school district or intermediate unit records concerning the student, including all test results or reports upon which the recommendation may be based. This will be in accord with the Guidelines for the Collection, Maintenance, and Dissemination of Pupil Records under 22 Pa. Code §12.33.

BEFORE THE RECOMMENDATION IS IMPLEMENTED, you have the right to request a PRE-HEARING CONFERENCE. Following the PRE-HEARING CONFERENCE, you have the right to request a HEARING before a designee of the Secretary of Education.

I. PRE-HEARING CONFERENCE

If you request a PRE-HEARING CONFERENCE, these procedures will be followed:

1. The PRE-HEARING CONFERENCE will be scheduled within 10 days from the date the school received your request.

2. You may request from the school district or intermediate unit a copy of the complete evaluation or re-evaluation of the student. Such evaluation will be completed prior to the PRE-HEARING CONFERENCE.

3. The chief school administrator or designee will chair the conference.

4. The PRE-HEARING CONFERENCE will include but not be limited to: the parent, guardian or surrogate parent; a supervisor of special education; the student, if appropriate; and if possible, the evaluator(s) and the guidance counselor. Any person the parent wishes to invite may attend. The parent may request that the conference be closed to the public.

5. The school district and/or intermediate unit personnel will provide written evidence to support the appropriateness of the student's program. You may present records or reports, not previously available to the district or intermediate unit, which you feel will be helpful in determining the appropriateness of the recommended assignment.

6. You may be accompanied by any person of your choice, including legal counsel, whom you wish to either advise or represent you at the conference.

7. At the PRE-HEARING CONFERENCE, every attempt will be made to reach an agreement on an appropriate placement and program. The purpose of the conference is to foster discussion and not confrontation.

FOLLOWING THE PRE-HEARING CONFERENCE, YOU WILL BE GIVEN DOCUMENTATION OF THE CONFERENCE AND THE OPPORTUNITY TO REQUEST A HEARING.

II. HEARING

If you request a HEARING, these procedures will be followed:

1. The school district will forward your request to the Department of Education within 10 days from the date the district receives your request.

2. The HEARING will be conducted by an impartial hearing officer who is a designee of the Secretary of Education.

3. The HEARING will be held no sooner than 15 days nor later than 30 days from the date your hearing request is received by the Department of Education.

4. The HEARING will be held in your local school district or intermediate unit and may be held in the evening, if you wish.

5. It will be an oral, personal HEARING, and it will be closed and private unless you specifically request an open HEARING.

6. You may be represented by any person of your choice, including legal counsel.

7. You have the right to present evidence, including expert medical, psychological and educational testimony. Any evidence which you present is to be disclosed to the school district/intermediate unit at least 5 days before the hearing.

8. You have the right to compel the attendance of any school official, employe or agent of a school district, intermediate unit or the Department of Education who may have evidence directly relevant to the recommended assignment and to confront and to pose questions to any witness at the HEARING.

9. Any evidence which the school district/intermediate unit presents is to be disclosed to you at least 5 days before the HEARING.

10. A transcript of the HEARING will be made; a copy will be at the school district or intermediate unit office. You may review this copy, or, at the close of the HEARING, you may request your own copy free of charge.

11. The decision of the hearing officer will be based solely on the evidence presented at the HEARING. The hearing officer will decide whether the recommended assignment is appropriate. If the hearing officer decides that the assignment is inadequate or inappropriate for your child and if the hearing officer feels that there is substantial evidence to show that your child is in need of special education, he may recommend an alternate type of special education for your child or he may recommend modifications in the school district/intermediate unit proposed program. After the hearing officer's decision is rendered, it shall be the school district's responsibility to implement the decision.

12. The decision will be made within 20 days of the HEARING. It will be in writing, and will contain findings of fact and conclusions of law. The decision will be sent to you by certified mail.

13. Within 10 days of the date you receive the decision, the school district will contact you to schedule a conference to develop an Individualized Education Program.

14. No change will be made in the student's educational assignment until a decision has been rendered by the hearing officer.

15. You may appeal the decision of the hearing officer to the Secretary of Education who will review your objections to the hearing officer's decision. The appeal procedures will be attached to your copy of the decision. The decision of the Secretary of Education on your objections may in turn be appealed to Pennsylvania Commonwealth Court or, pursuant to 20 U.S.C. § 1401 et seq., to Federal district court.

The local Mental Health and Mental Retardation Base Service Unit is:

____

____ PHONE:____________

The Pennsylvania Association for Retarded Citizens may assist you concerning the hearing. The PARC chapter nearest to you is:

____

____ PHONE:____________

If you wish to be represented by a lawyer, but are unable to afford one, free legal services may be available to you from:

____

____ PHONE:____________

The following agencies may also assist you:
(NOTE: Appropriate list of agencies with address, phone number and the type of student served to be provided by each intermediate unit.)

____

____ PHONE:____________

____

____ PHONE:____________

____

____ PHONE:____________

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: ______________________

FROM: Robert A. Green

SUBJECT: Follow-Up On Referral For Itinerant Program

DATE: ______________________

Pupils Name ______________________________

☐ Speech ☐ Hearing ☐ Vision

The above named pupil was evaluated by Intermediate Unit itinerant personnel. For your records:

☐ Child is not exceptional and not in need of itinerant program instruction. (Copy of letter sent to parents is attached.)

☐ Child is in need of itinerant program instruction. (Copy of Due Process, returned by the parents, is attached.)

- ☐ parents agree to the program placement.
- ☐ parents do not agree to the program placement. (See details on case, attached)

☐ Child is in need of itinerant program instruction. Due Process form was sent to parents on ______. Ten days (Date) have elapsed without parental response. The child has been enrolled in the itinerant program.

☐ Child has been dismissed from the itinerant program.

☐ Child has moved from your school district.

RE-EVALUATION

§ 341.7 Special Education Standards

(b) Re-evaluation

At least once every two years, the review or revision, or both, of the Individualized Education Program shall be based on an analysis of the documented cumulative record of the student by a team in accordance with § 341.13 (g) of this title (all data shall be reviewed and interpreted by a public school psychologist, the present teacher, and a supervisor of special education or a school administrator or another person knowledgeable about appropriate programs and options). The re-evaluation may include administration of individual psychological tests administrated by a certified public school psychologist and other clinical examinations if needed. Parental consent is not required for a re-evaluation.

Before conducting a re-evaluation of a student who is receiving special education, you must send a written notice to the parent. The notice is to state:

(1) that a re-evaluation is to be conducted
(2) the approximate date and type of re-evaluation

This notice is informational only.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

NOTICE OF INTENT TO CONDUCT A REEVALUATION

Dear ____:
Complete name of student, parent, guardian or surrogate parent

______________________________________ will conduct a reevaluation
School District/Intermediate Unit Number 20

for ___________________________________ to assure that he/she has an appropriate
Student's Complete Name

education program.

The student will have the reevaluation for the following reasons: ______________

____

____

Our plan for evaluation includes:

Type of Test/Procedure	Proposed Date of Evaluation

You have the right to see and study all the information in the student's school record. Since all of your questions may not be answered by reviewing these records, you may also wish to meet with the evaluator(s) to discuss the evaluation procedures. To obtain the student's records or to arrange a conference, you may call:

____
Specify staff member, phone number and hours during the day when he/she can be

______________________.
reached

If this reevaluation indicates a necessity for major revisions in your child's program, we will ask for your assistance in preparing a revised Individualized Education Program (IEP).

Sincerely,

____
Director of Special Education

CNIU-402

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Due Process Notification

Speech, Hearing, Vision

Please notify:

Therapist/Teacher______________________________ Date_______________

Pupil's Name	Entry (E) Revision (R) Dismissal (D)	Due Process was	
		Signed and Received	Not received in 10 days allowed.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Therapists Record Of Pupil Tracking

Therapist's Name ______________________

Pupil's Name ______________________ Other I.U. Services Received ______________.

Date Parent Permission Received ____________. Date D & C Received ______________________.

_____ Evaluation completed. Therapy needed? Yes No .

_____ Conference preparation completed.

Date of Action Request ________________.

Date of Conference ____________________. Parent present? Yes No. Date of Action Request __________.

_____ I. U. to send Due Process & I.E.P.

_____ I.E.P. given and signed Due Process sent to I.U.

_____ Parent will mail Due Process to I.U.

EVIEW

Annual Review Dates ____ / ____ (1 2)   Action Request Dates ____ / ____ (1 2)
(To invite parents)

Therapy needed? Yes No / Yes No (1 2)   I.U. to coordinate conference Yes No / Yes No (1 2)

Conference Dates ____ / ____ (1 2)   Parents Present? Yes No / Yes No (1 2)

Dates of Action Request ____ / ____ (1 2)
(if needed)

____ / ____ (1 2) I. U. to send Due Process and IEP.

____ / ____ (1 2) IEP given and signed Due Process sent to I.U.

____ / ____ (1 2) Parent will mail Due Process to I.U.

DISMISSAL

_____ Pupil moved from I.U. 20. Track in inactive file.

_____ Therapy no longer needed. Date of Action Request __________.

_____ Update front page of I.E.P.

Conference Date _____. Parent present? Yes No .
te of Action Request ______________________.
_____ I. U. to send Due Process and front page of I.E.P.
_____ I.E.P. given to parents and signed Due Process sent to I.U.
_____ Parent will mail Due Process to I. U.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

311

ACTION REQUEST

Itinerant Speech, Hearing, And Vision Programs

TO: Robert A. Green

FROM: ____________________, Therapist/Teacher

DATE: ____________________

Directions: To be completed by itinerant personnel and promptly submitted to the program supervisor at each step in the enrollment or dismissal process.

Pupil's Name ____________________ District ____________________

School ______________ Grade ______________

☐ Speech Program ☐ Articulation ☐ Language ☐ Fluency ☐ Voice

☐ Hearing Program

☐ Vision Program

ENTRY OR REVISION

Pupil Evaluated

☐ NO itinerant instruction indicated. I.U. to send letter of explanation to parents.

☐ Itinerant instruction is indicated. I.U. to send letter inviting parents to IEP Conference.

IEP Conference Completed

☐ IEP conference was held on ______ (Date). Parents ☐ were ☐ were not present.

☐ I.U. to send due process form to parents for entry into program. Copy of entire IEP is attached.

☐ Due process form and IEP were presented to parents and due process was signed and returned and is attached.

☐ Due process form and IEP were presented to parents on ______ (Date). Parents will mail form to the I.U.

DISMISSAL

Program Completed

☐ Pupil is recommended for dismissal from the itinerant program. I.U. to send letter inviting parents to a program planning conference.

☐ Dismissal conference was held on ______ (Date). Parents ☐ were ☐ were not present.

Program Conference Completed

☐ Send due process form to parents for dismissal from program. Front page of IEP is attached.

☐ Due process form and IEP were presented to parents and due process was signed, and is attached.

332

☐ Due process form and IEP were presented to parents on ______. Parents will mail form to the I.U.

9/77

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

ACTION REQUEST

Itinerant Speech, Hearing, And Vision Programs

T Robert A. Green

FROM: ____________________, Therapist/Teacher

DATE: ____________________

Directions: To be completed by itinerant personnel and promptly submitted to the program supervisor at each step in the enrollment or dismissal process.

Pupil's Name____________________ District____________________

School____________ Grade____________

☐ Speech Program ☐ Articulation ☐ Language ☐ Fluency ☐ Voice

☐ Hearing Program

☐ Vision Program

ENTRY OR REVISION (Circle One)

Pupil aluated

☐ NO itinerant instruction indicated. Child is not exceptional. I.U. to send letter of explanation to parents.

☐ Itinerant instruction is indicated. I.U. to send letter inviting parents to IEP Conference.

☐ Itinerant instruction is indicated. IEP/Special Class Conference invitation to be coordinated in the Intermediate Unit Office.

IEP Conference Completed

☐ IEP conference was held on _____ (Date). Parents ☐ were ☐ were not present.

☐ I.U. to send due process form to parents for entry or continuation into program. Copy of entire IEP is attached.

☐ Due process form and IEP were presented to parents and due process was signed and returned and is attached.

☐ Due process form and IEP were presented to parents on _____ (Date). Parents will mail form to the I.U.

☐ District to issue due process. Child is referred for or enrolled in I. U. special class also.

DISMISSAL

☐ Pupil moved from I.U. 20. Track in inactive file.

Program Completed

☐ Pupil is recommended for dismissal from the itinerant program. I.U. to send letter inviting parents to a program planning conference.

☐ Dismissal conference was held on _____ (Date). Parents ☐ were ☐ were not present.

Program Conferenc Completed

☐ Send due process form to parents for dismissal from program. Front page of IEP is attached.

☐ Due process form and IEP were presented to parents and due process was signed, and is attached.

☐ Due process form and IEP were presented to parents on _____ (Date). Parents will mail form to the I.U.

2/78

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

ACTION REQUEST

TO: Robert A. Green - Itinerant Speech, Hearing, and Vision Programs

FROM: ____________________

DATE: ____________, ____________, ____________, ____________

Directions: To be completed by itinerant personnel and promptly submitted to the program supervisor at each step in the enrollment or dismissal process.

Pupil's Name ____________________ District ____________________

School ____________________ Grade ________

____ Speech Program ____ Articulation ____ Language ____ Fluency ____ Voice

____ Hearing Program ____ Vision Program

ENTRY OR REVISION (Circle One) (Date) (#) ______ ___ (Date) (#) ______ ___ (Date) (#) ______ ___ (Date) (#) ______ ___

Pupil Evaluated

(1) NO itinerant instruction indicated. Child is not exceptional. I.U. to send letter of explanation to parents.

(2) Itinerant instruction is indicated. I.U. to send letter inviting parents to IEP conference.

(3) Itinerant instruction is indicated. IEP/Special Class conference invitation to be coordinated in the Intermediate Unit Office.

. . . .

____ IEP conference was held on (Date) ______ (#) ___ Parents ____ were ____ were not present.
____ ______ ___ ____ ____
____ ______ ___ ____ ____
____ ______ ___ ____ ____

IEP Conference Completed

(1) I.U. to send due process form to parents for entry or continuation into program. Copy of entire IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed and returned and is attached.

(3) Due process form and IEP were presented to parents on ______ (date). Parents will mail form to the I.U.

(4) District to issue due process. Child is referred for or enrolled in I.U. special class also.

DISMISSAL

Program Completed

____ Pupil moved from I.U. #20. Track in inactive file.

____ Pupil is recommended for dismissal from the itinerant program. I.U. to send letter inviting parents to a program planning conference.

. . . .

____ Conference was held on ______ (date) ______ (#) Parents ______ were ______ were not present.

Program Conference Completed

(1) Send due process form to parents for dismissal from program. Front page of IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed, and is attached.

(3) Due process form and IEP were presented to parents on ______ (date). Parents will mail form to the I.U.

5/78

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

ACTION REQUEST

TO: Robert A. Green - Itinerant Speech, Hearing, and Vision Programs

FROM: ____________________

DATE: ____________, ____________, ____________, ____________

Directions: To be completed by itinerant personnel and promptly submitted to the program supervisor at each step in the enrollment or dismissal process.

Pupil's Name ____________________ District ____________________

School ______________ Grade ______

____ Speech Program ____ Articulation ____ Language ____ Fluency ____ Voice

____ Hearing Program ____ Vision Program

ENTRY OR REVISION (Circle One) (Date) (#) (Date) (#) (Date) (#) (Date) (#)

Pupil Evaluated

(1) NO itinerant instruction indicated. Child is not exceptional. I.U. to send letter of explanation to parents.

(2) Itinerant instruction is indicated. I.U. to send letter inviting parents to IEP conference.

(3) Itinerant instruction is indicated. IEP/Special Class conference invitation to be coordinated in the Intermediate Unit Office.

. . . .

____ IEP conference was held on ______ (Date) ____ (#) Parents ____ were ____ were not present.

IEP Conference Completed

(1) I.U. to send due process form to parents for entry or continuation into program. Copy of entire IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed and returned and is attached.

(3) Due process form and IEP were presented to parents on ______ (date). Parents will mail form to the I.U.

(4) District to issue due process. Child is referred for or enrolled in I.U. special class also.

DISMISSAL

____ Pupil moved from I.U. #20. Track in inactive file.

____ Pupil moved within I.U. #20 to ____________ school, ____________ district. Notify new therapist.

____ Pupil graduated. File in inactive file.

____ Pupil is recommended for dismissal from the itinerant program. I.U. to send letter inviting parents to a program planning conference.

. . . .

____ Conference was held on ______ (date) ____ (#) Parents ____ (were) ____ (were not) present.

Program Conference Completed

(1) Send due process form to parents for dismissal from program. Front page of IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed, and is attached.

(3) Due process form and IEP were presented to parents on ______ (date). Parents will mail form to the I.U.

6/78

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Speech and Hearing Program

Your child's adjustment to and progress in school may be affected by his ability to be understood when he speaks. If you feel that his speech is not within the normal range of development for kindergarten or first grade pupils, will you please answer the following questions so that the public shcool speech therapist can ascertain whether your child's speech should be evaluated and whether your child should be considered for the speech therapy program.

1. Do you nearly always understand your child's speech ( ) Yes ( ) No

2. Do other people usually understand your child's speech? ( ) Yes ( ) No

3. Check the phrases that best describe his speech:

   ( ) Does not talk
   ( ) Talks very little
   ( ) Use "baby talk"
   ( ) Says many words in a peculiar way
   ( ) Omits speech sounds
   ( ) Talks through his nose
   ( ) Hesitates while speaking
   ( ) Has unusual breathing Patterns while speaking
   ( ) Voice sounds strained, breathy, or hoarse
   ( ) Speaks too high or too low
   ( ) Cleft-palate speech

4. Does your child have a hearing loss? ( ) Yes ( ) No

5. Comments:

Parent's Name ______________________ Child's Name ______________________

Address ______________________ Phone ____________ Birthdate ______________________

School Building to Attend ______________________ Grade ______________________

__To Registration Personnel:__ Please have the parent or guardian complete this form at the time of kindergarten registration __if__ the parent or guardian feel that their child may have a speech problem.

The speech therapist will collect the completed forms from you.

APPENDIX I

DIRECTIONS TO IMPLEMENT NEW PROCEDURES

Page

Enrollment/Dismissal Procedures, 1977-1978, Itinerant Speech, Hearing, and Vision Programs - explained and distributed to all itinerant staff members.............................. 317

Secretarial Guidelines to Processing Pupils' Enrollment and Dismissal in the Itinerant Speech, Hearing, and Vision Program - reviewed in detail with secretaries involved in the processing of pupils. Also serves as a reference for temporary secretaries................. 321

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Enrollment/Dismissal Procedure, 1977-1978

Itinerant Speech, Hearing, And Vision Programs

Enrollment into an Itinerant Program

1. School personnel may request screening by itinerant staff any time during the school term. Forms are available for speech screening requests, and therapists should see that principals at each school have an adequate supply.

2. After screening is accomplished and the therapist/teacher has consulted with the classroom teacher, the request for screening forms should be completed by the itinerant program personnel by the addition of:

   (a) therapist's name
   (b) date of screening
   (c) disposition - "refer" or "no need to refer"

3. For referral of pupils in district classes, district personnel are to complete the proper referral form (salmon, green or grey/white) and obtain the parents signature on a permission to evaluate form. Both must be submitted to the Intermediate Unit Office for logging/tracking.

   For referral of pupils in Intermediate Unit classes, the teacher and/or Instructional Advisor are responsible for the completion of the referral form, obtaining the signed permission to evaluate form and for the submission of the forms to the Intermediate Unit office for logging/tracking.

4. When the referral is received in the office the therapist/teacher will be notified by the secretary and a copy of the referral will be placed in the itinerant's office mailbox. The therapist/teacher shall contact the parents to inform them more specifically of the test date and tests. If two telephone calls do not result in contact with the parents, a note shall be sent home to them advising them of the date and tests to be given. These attempts shall be documented by the itinerant on the appropriate form and filed in the pupil file.

   Evaluations may take place after:

   (a) contact with the parents or
   (b) after two unsuccessful telephone attempts and a note sent home.

5. Following the evaluation:

   a. If the pupil is not in need of itinerant instruction, so indicate on "Action Request" form and submit it to the office. Telephone the parents regarding the evaluation findings. Letter to parents will be sent from the Intermediate Unit office.

   b. If child is in need of itinerant instruction, so indicate on the "Action Request" form and submit it to the Intermediate Unit office and:

(1) telephone the parents regarding the evaluation findings.
(2) begin developing the I.E.P.
(3) letter inviting parents to an I.E.P. Conference will be sent from the Intermediate Unit office.
(4) the secretary will alert the I.E.P. Coordinator

When the letter is returned or if it is not returned, you will be advised of the parents' wishes regarding the I.E.P. Conference.

6. If there is a stated parent interest in I.E.P. development, an I.E.P. Conference is to be held.

a. If parents are satisfied with the I.E.P. at the conference, you may present a copy of the I.E.P. to them along with the Due Process form, to be signed at the conference. The Due Process is then to be sent to the Intermediate Unit with an "Action Request" form indicating the next step to be taken.

b. The parents may decide they wish to look over the Due Process before signing it, although they agree to the I.E.P. In this case they are to be advised that they have 5 days in which to return the Due Process form, since it was presented in person. An "Action Request" form should indicate this to Intermediate Unit office personnel for appropriate tracking.

7. If there has been no response to the I.E.P. development conference invitation, the itinerant will be notified. The conference will then be held, the I.E.P. developed. An "Action Request" indicating the next step, and a copy of the I.E.P. should be submitted to the Intermediate Unit office. The Due Process and I.E.P. will then be mailed from the Intermediate Unit office.

8. After the Due Process form is signed or a 10 day period of no response has elapsed (5 day period if Due Process form was given to parents), itinerant instruction may begin. The itinerant personnel will be notified when this step has occurred.

Revision of the Itinerant Program

9. Refer to Step 5, b, above, circle "Revision" on "Action Request", and continue through Step 6 with the exception of the involvement of the Due Process form.

Dismissal from an Itinerant Program

10. When the child is ready for dismissal from an itinerant program, contact with the parents (via telephone or note) should convey your intent of dismissal.

1 An "Action Referral" indicating the dismissal recommendation should be submitted to the Intermediate Unit office. A letter inviting the parents to participate in a conference will be mailed from the office to the parents. The itinerant personnel will be notified when a response from the parents is received, or when 10 days has elapsed with no response.

12. Following the "dismissal conference" an "Action Request" should be submitted to the Intermediate Unit indicating:

    a. that a Due Process should be sent with the front page of the I.E.P. (revised),

    b. or that the I.E.P. front page and Due Process form were given to the parents and signed. Due Process forms should be sent to the office with the "Action Request."

    c. or that the I.E.P. front page and Due Process were given to the parents at the conference, with directions to the parents to return the Due Process form within 5 days.

13. Upon confirmation that the dismissal process has been completed properly, you will be notified that the child is officially dismissed.

NOTE: The above procedures should enable pupils to enter or be dismissed from the itinerant programs within one month, with most actions requiring less time.

These procedures should take care of at least 95% of the cases. Should parents request a pre-hearing conference or a hearing, immediately notify your Program Supervisor, Instructional Advisor, or I.E.P. Implementor. You will be given assistance in dealing with these cases.

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

ACTION REQUEST

TO: Robert A. Green - Itinerant Speech, Hearing, and Vision Programs

FROM: ______________________

DATE: ____________, ____________, ____________, ____________

Directions: To be completed by itinerant personnel and promptly submitted to the program supervisor at each step in the enrollment or dismissal process.

Pupil's Name ______________________ District ______________________

School ______________ Grade ____

___ Speech Program ___ Articulation ___ Language ___ Fluency ___ Voice

___ Hearing Program ___ Vision Program

ENTRY OR REVISION (Circle One) (Date) (#) (Date) (#) (Date) (#) (Date) (#)

_____ ___ _____ ___ _____ ___ _____ ___

Pupil Evaluated

(1) NO itinerant instruction indicated. Child is not exceptional. I.U. to send letter of explanation to parents.

(2) Itinerant instruction is indicated. I.U. to send letter inviting parents to IEP conference.

(3) Itinerant instruction is indicated. IEP/Special Class conference invitation to be coordinated in the Intermediate Unit Office.

. . . .

___ IEP conference was held on _____ (Date) ___ (#) Parents ___ were ___ were not present.

___ _____ ___ ___ ___

___ _____ ___ ___ ___

___ _____ ___ ___ ___

IEP Conference Completed

(1) I.U. to send due process form to parents for entry or continuation into program. Copy of entire IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed and returned and is attached.

(3) Due process form and IEP were presented to parents on _____ (date). Parents will mail form to the I.U.

(4) District to issue due process. Child is referred for or enrolled in I.U. special class also.

DISMISSAL

____ Pupil moved from I.U. #20. Track in inactive file.

____ Pupil moved within I.U. #20 to __________ school, __________ district. Notify new therapist.

____ Pupil graduated. File in inactive file.

____ Pupil is recommended for dismissal from the itinerant program. I.U. to send letter inviting parents to a program planning conference.

. . . .

____ Conference was held on _____ (date) ____ (#) Parents ____(were) ____(were not) present.

Program Conference Completed

(1) Send due process form to parents for dismissal from program. Front page of IEP is attached.

(2) Due process form and IEP were presented to parents and due process was signed, and is attached.

(3) Due process form and IEP were presented to parents on _____ (date). Parents will mail form to the I.U.

6/78

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Secretarial Guidelines To Processing Pupils' Enrollment and Dismissal In The Itinerant Speech, Hearing, And Vision Program

There are numerous directions that can be followed in processing a pupil into or out of the itinerant programs. The processing/tracking is accomplished in the Intermediate Unit Office to provide a centralized point for this information and consistency and expedience for this procedure. The result is maximum understanding between district teachers, district administrators, Intermediate teachers, therapists, Intermediate Unit office staff, parents and the children involved. The process that has been devised is geared to meet the mandates of P.L. 94-142, while maximizing the amount of instructional time for pupils in the itinerant instructional programs. It is with these goals in mind that the following guidelines are written.

I. Secretary receives the following:

Completed "Request for Screening" form.
Completed "Referral Form" and "Permission to Evaluate".
Complete "Action Request" form.

A. "Request for Screening", when sent in to the office, has pupils name, grade, school, and district as identifying information. It also carries the disposition of the pupil, i.e. to be referred, or in no need of further evaluation.

1. For those pupils not in need of further evaluation (referral), no information is collected by the secretary. Forms are routed to the program supervisor.
2. For those pupils to be referred for further evaluation, the secretary will initiate a "Speech, Hearing, Vision Referral/Dismissal Log" form (A/K/A "Tracking Sheet").

   a. Information from the screening request is transferred to the "Referral/Dismissal Log".
   b. The form is filed in the "Pending" file, as this constitutes a case which will be formally referred by the school district for further evaluation and, possibly instruction.

B. Referral form and permission to evaluate form.

1. Referral form and permission to evaluate, when sent into the office, must be checked for:

   a. Parent signature (permission to evaluate).
   b. District personnel signature (on referral).
   c. Completeness of information (as requested on the referral form and permission form).

2. Where "referral" and "permission to evaluate" are incomplete, the "Incomplete Referral" form letter shall be completed, indicating the incomplete item(s). The form shall be sent with both the referral and permission to evaluate, to the district or Intermediate Unit personnel as appropriate for completion. This information shall also be logged in the "Incomplete Referral Log", held by the secretary.

3. Where the referral and permission to evaluate have been completed satisfactorily the secretary shall:

   a. Remove the "Referral/Dismissal Log" from the pending file and complete the identifying information on the pupil, and date referral is received.
   b. Xerox one copy of each "referral" and "permission" for speech, file originals with the "Referral/Dismissal Log", alphabetically under "pending with referral" route the Xerox copy to supervisor for assignment of case.
   c. Xerox two copies of each "referral" and permission for "hearing or vision cases", file originals with the "Referral/ Dismissal Log", alphabetically under "pending with referral", route one Xerox copy to supervisor for assignment of case; second Xerox copy to supervisor's secretary for the establishment of an individual pupil forlder for the office file.

C. "Action Request" forms will be sent to the office by itinerant teachers and therapists. The particular action required will be indicated on the "Action Request" form. In all cases the "Referral/ Dismissal Log" must be located in the file and updated according to the information on the "Action Request".

1. When the pupil is evaluated and found to be not exceptional:

   a. A pink notice of non-execptionality shall be prepared for the parents and submitted to the supervisor for confirmation and to be filed with the Referral/Dismissal Form and the original is mailed to the parents.
   b. A "Follow-Up on Referral for Itinerant Program" shall be completed and sent, with a copy of the pink colored notice of non-exceptionality to the district or Intermediate Unit personnel as appropriate.
   c. "Referral/Dismissal Log" shall be updated with evaluation date, a check or the statement "No itinerant instruction indicated", and the date the letter is sent to the parents.
   d. The "Referral/Dismissal Log" is then filed, alphabetically, in the "Inactive File".

2. When a pupil is evaluated and found to be in need of itinerant instruction:

   a. The form letter inviting the parents to an I.E.P. Conference is sent to the parents.

b. Notify I.E.P. Coordinator of this status, as an I.E.P. Conference must be held, with or without parents in attendance.
c. Information of this mailing is added to the "Referral/Dismissal Log", and it is tracked in the 10 day file, as parents have 10 days in which to respond.
d. Upon the receipt of the invitation letter, (response from parents) or following the expiration of the 10 day period, enter the status on the "Referral/Dismissal Log" and notify I.E.P. Coordinator of the status, to help arrange the planning conference.
e. If the "Action Request" indicates that the pupil is recommended for an Intermediate Unit special class as well as an itinerant program, there shall be one letter inviting parents to the I.E.P. Conference. This shall be coordinated by the secretary to avoid duplications from multiple programs involved.

3. An "Action Request" will be sent to the office by the therapist/teacher after an I.E.P. Conference has been held. It will include the date of the I.E.P. Conference and the outcome.

a. This information shall be transferred to the "Referral/Dismissal Log".
b. Secretary will prepare due process for insepection and signature by the supervisor and to be sent with the I.E.P. to the parents. Place the "Referral/Dismissal Log" in 10 day file.
c. If due process is presented to parents in person, track the "Referral/Dismissal Log" from "day 5" of the 10 day file, as parents have 5 days to return the form when it is presented to them in person.
d. If due process form is included with the "Action Request" it should be attached to the "Referral/Dismissal Log" and filed in the "Active" alphabetical file. A copy of the signed Due Process is to be returned to the referring district or Intermediate Unit personnel with a form "Follow-Up on Referral for Itineratn Program", for the referents' records.
e. In cases where an Intermediate Unit full-time placement is also involved in the recommendation, or if residential placement is concerned, bring these cases to the attention of the supervisor as they are each unique and must be handled individually.
f. If the "due process form" is not returned after the allotted time, or if it is received and parents accept placement in the allotted time, the secretary shall transfer this information to the "Referral/Dismissal Log" and complete a "Due Process Notification" for the Supervisor's secretary, who will inform the teacher/therapist that the instruction may begin.
The "Due Process Notification" will also be routed to the I.E.P. Implementor so that her log can be completed on the case.
g. If there is an indication of refusal of the program or a request for a pre-hearing conference is indicated by the parents, notify the program supervisor immediately.

3. Revision: At least annually a review/revision of the pupil's program must be held. In these situations "REVISION" will be circled on the Action Request. Other direction will involve items: C, 2, a-e and C, 3, a-g.

4. Dismissal:

   a. Similar to program entry and revision, "Action Requests" will be sent to the office to initiate letters inviting parents to I.E.P./Dismissal Conferences, and requesting that due process letters be mailed to parents. Follow basic directions in C, 2, a-e and C, 3, a-g.
   b. If a pupil has moved from a school district within the the Intermediate Unit the information shall be transferred from the "Action Request" to the "Referral/Dismissal Log" and the latter shall be filed in the "Inactive File".
   c. In all cases of dismissal, update "Referral/Dismissal Log" and file it in the "Inactive" file.
   d. In all cases of dismissals a "Follow-Up on Referral for Itinerant Program" shall be completed and sent to the pupil's district, administrative personnel, with a copy of the signed due process if available.

II. If the secretary receives any additional correspondence from parents, district personnel or Intermediate Unit therapist/teacher which raises question about the procedure the secretary shall contact the supervisor immediately.

APPENDIX J

POSTING OF VACANCY FOR SECOND SPEECH/HEARING/VISION I.E.P. IMPLEMENTOR

ANNOUNCING!

TO: Professional Personnel

FROM: Dr. H. Ronald Huber

SUBJECT: Vacancies

DATE: November 14, 1977

It is anticipated that the following vacancies shall be filled in the near future:

ED/LD IEP Implementor

Speech/Vision/Hearing IEP Implementor

Responsibilities of these positions include the providing of technical assistance in the monitoring of IEP's for currently enrolled students and the formulation of IEP's for newly identified handicapped students. Basic requirements are three years of special education experience and demonstrated expertise in diagnostic/prescriptive teaching.

Any Intermediate Unit Number 20 professional wishing to apply for either position should submit a written indication of their interest by November 30, 1977, to:

Dr. H. Ronald Huber
Executive Director
Colonial Northampton Intermediate Unit Number 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

HRH:bl

APPENDIX K

I.E.P. IMPLEMENTORS' CASELOAD (ASSIGNMENT) COVERING APPROXIMATELY A 600 MILE AREA

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Caseload: Barbara Miller

Arlington Heights Learning Center

East Stroudsburg District

- J. M. Hill
- Bushkill Elementary
- Middle Smithfield
- Smithfield Elementary
- Open Access
- Bunnell
- Senior High
- Alternative Program within Senior High

Stroudsburg District

- Clearview Elementary
- Hamilton Elementary,
- Morey Elementary
- Ramsey Elementary
- Middle School
- Senior High

Pocono Mountain District

- Barrett Elementary
- Coolbaugh Elementary
- Pocono Elementary
- Tobyhanna Elementary
- Reeders Trainable Center
- Middle School
- Senior High

Bangor

- Five Points
- Bushkill Elementary
- Middle Smithfield
- Bangor Elementary
- Columbus Elementary
- Washington Township Elementary
- Bangor Junior High School
- Bangor Senior High School

Pleasant Valley District

- Chestnuthill Elementary
- Eldred
- Polk Elementary
- John C. Mills
- Junior/Senior High

Delaware Valley District

- Matamoras Elementary
- Milford Elementary
- Delaware Township
- Shohola
- Middle School
- Senior High

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Caseload: Cathleen Rannels

Easton

Ada B. Cheston Elementary
Shawnee Intermediate
Palmer Elementary
Vo-Tech (Intermediate Unit classes)
Porter Elementary
Easton Middle
Paxinosa
Webster - Intermediate Unit
March
Forks Township Elementary
Easton Senior High
Tracy

Wilson

Philip F. Lauer Middle
Williams Township Elementary
Avona Elementary
Hay Elementary
Wilson High

Pen Argyl

Pen Argyl Elementary
Plainfield Elementary
Pen Argyl Junior/Senior High

Saucon Valley

Lower Saucon Elementary
Reinhard Elementary
Wolf Elementary
Saucon Valley Junior High
Saucon Valley Senior High
Clearview - Intermediate Unit

Nazareth

Lower Nazareth
Church - Intermediate Unit
Howertown - Intermediate Unit
Bushkill Elementary
Whitfield Elementary
Jackson - Intermediate Unit
Nazareth Junior High
Nazareth Senior High
Leiberts - Intermediate Unit
Shafer Elementary

Hearing in Bethlehem

Asa Packer
East Hills
Spring Garden
Lincoln - Hard of Hearing Class
Liberty High School

Intermediate Unit

Michaels
Stockertown
Tatamy

Hearing (Donna Shock)

Northampton Senior High
Northampton Junior High

APPENDIX L

QUIZTIME - A MIDYEAR REVIEW FOR ITINERANT PERSONNEL SERVED TO ACT AS A SPRINGBOARD TO STAFF DISCUSSION

QUIZTIME:

A serious review of how the Right to Education Laws and I.U. 20 procedures affect you in the itinerant programs.

Directions: Complete the Quiz then remove tape.

	T	F	Answers
1. Since January, 1978, the referral processing in the I.U. has improved greatly.	___	___	True - Referrals and Action Requests are now on a current day basis in the I.U. office.
2. We can develop an I.E.P and send it to the parents without inviting them to a planning conference.	___	___	False - Federal Law indicates that parents must have the opportunity to participate in the I.E.P. conference.
3. Itinerants may not send out I.E.P. invitations or due process directly to parents.	___	___	True - I.U. 20's system provides for centralized tracking of itinerant cases.
4. Itinerants may call the office to check on a particular, overdue referral.	___	___	True - after allowing time for a district's normal processing.
5. We can't call parents on the phone and tell them we are placing their child in special education.	___	___	True - 94-142 "requires written prior notice in matters relating to identification, evaluation and educational placement of a handicapped child."
6. If a district fails to refer a child recommended for referral, the I.U. cannot evaluate the pupil if the parents say it's okay to go ahead.	___	___	True - Itinerants may suggest referrals, not demand them. Referrals must go through the district.
7. "Parents must be allowed ten days to respond to a due process letter mailed to them, or five days if the letter is presented in person."	___	___	True - It's the law.
8. "Aurora Thoder is only human..."	___	___	True - but she is on a current day basis for referrals and Action Requests.
9. "Teachers should receive in-service about 94-142 from the I.U."	___	___	True - and you are "the I.U." in the schools.

	T	F	Answers
10. Action Request forms do save time.	___	___	True - Itinerants need to use only that one form to initiate an I.E.P. conference letter or dismissal or enrollment due process letters. Forms are sent to one place, the I.U. office, in stamped, self-addressed envelopes. How easy can it be?
11. Itinerants, I.E.P. Implementors and Coordinator, I.A. and Supervisor are ready, willing and able to address faculty, principals, administration, on the new law and the procedure in itinerant programs.	___	___	True - if itinerants are not familiar with any points--please ask!
12. It is rumored that RAG doesn't care how hard itinerants must work.	___	___	True - but the rumor is false.
13. Tracking can be accomplished more efficiently in the I.U. office than by 34 individual itinerants.	___	___	True - and it eliminates itinerants from stamping and addressing envelopes to parents and completing numerous forms, eliminates the problem of mail delays in schools and eliminates the need for counting the five to ten days allowed for parent response. This allows the itinerant to be in instruction by minimizing paperwork of this nature, at least.
14. If a parent does not appear at an I.E.P. review, a copy of the review must be sent to him/her.	___	___	True - every effort must be made to inform the parents of any change in program. It's the law.
15. Itinerants might not be meeting with pupils as much this year as they did last year.	___	___	True - There are now different responsibilities in the itinerant programs which should be accepted as fact. We hope we can make the parental involvement compensate for this decrease in time.
16. An LEA's required presence at an I.E.P. conference is not an idea of I.U. 20.	___	___	True - it is the law.

		T	F	Answers
17.	Itinerants may make their own forms to use for tracking the status of their cases if they wish.	___	___	True - of course, but not required in itinerant programs. Such forms might be helpful to you but a burden to someone else.
18.	An I.E.P. invitation letter may not assign a date and time for an I.E.P. conference.	___	___	True - the law indicates that the meeting details must be mutually agreeable.
19.	"Cathy Rannels and Barb Miller take skiing trips on I.E.P. time.	___	___	False - Don't believe it. They are both working full days on I.E.P.'s.
20.	Thirty days from referral to program enrollment is a realistic expectation for most pupils.	___	___	True - most time delays are now in the district or with the parents. Realistic Time Schedule: District referral to I.U. - 1 day I.U. tracking and call to itinerant - same day Evaluation written - 2 days Action request to I.U. - 1 day Letter to parents from I.U. - same day Parents are allowed - 10 days Conference held within - 5 days Action request to I.U. - 1 day Due process to parents - same day Parents allowed - 10 days Therapist notified upon receipt - same day 30 days
21.	"Everyone feels too much time is involved in due process."	___	___	False - our lawmakers feel that this is necessary to insure the rights of the pupils. We must adapt to the new program requirements and capitalize on the positive aspects.
22.	Parents should be "forced" to attend I.E.P. conferences for the benefit of their children.	___	___	False - We are not in a totalitarian state. Parents still have the legal option to attend or not.
23.	"We could just contact parents by phone, inform them of the child's problem and then send out due process."	___	___	True - we could, but it would be illegal. 94-142 says that parents must be informed in writing, and also have the opportunity to participate in the I.E.P. conference.

		T	F	Answers 333
24.	Teachers should be given a checklist of behavior characteristics to judge problems needing screening and/or referral.	___	___	True - They should receive in-service as well as handouts.
25.	District personnel see referrals as "a pain in the neck."	___	___	True - according to a response in our recent survey. But we hope that they also see them as a start to an instructional program and accountability needed by the district as well as the I.U.
26.	Principals may act as LEA's in an I.E.P. conference.	___	___	True - legally, but what happens if he/she (a) doesn't show up at the conference or (b) you need professional support. Best advise your I.E.P. implementor if you want to go that route.
27.	"Reviews should be requested by the parents, not by the I.U."	___	___	True - and they may be any time after the first three months of placement. But the law also says that the educators must review the program, with the parents invited to participate, at least annually.
28.	"We should consolidate our forms."	___	___	_____ - Please advise us as to which ones you feel can be consolidated. As far as we know, each has its own purpose in providing accountability.
29.	"Next year will be better."	___	___	True - it should be, because your annual review dates are now scattered throughout the year and district personnel should be better organized to move referrals.
30.	"If I ruled the world...things would be different."	___	___	True - It's also a nice song.

****

Score yourself:

20-30	15-20	5-15	0-5
You could be the next I.E.P. Implementor.	Are you sure you attend staff meetings regularly in I.U. 20?	See your Supervisor.	Where are you working next year?

APPENDIX M

FORMAL PRESENTATION TO SUPERIVSORY STAFF REGARDING POTENTIAL TRANSPORT ABILITY OF PROCEDURES TO OTHER SPECIAL EDUCATION PROGRAMS

Page

Cover sheet of information packet............................ 335

Table of Contents of Packet (Note: Additional forms and figures of the packet are found throughout this report. Presentation in the appendix would represent unnecessary duplication.. 336

Explanation of Rationale for discussion of further application of procedures......................... 337

ITINERANT SPECIAL EDUCATION
PROGRAM TRACKING SYSTEM

Presentation

June 19, 1978

Robert A. Green

CONTENTS

Explanation of Rationale
Block Diagram
Tracking Log
Action Request
Screening Request
Memo: Incomplete Referral
Diagnostic and Consultative Services Referral
Permission To Evaluate
Hearing Referral
Vision REferral
Due Process - Speech
Memo: Due Process Notification (For Secretary & IEP Implementor)
Memo: Follow-up for Itinerant Program (Report To District)
Enrollment/Dismissal Procedures, 1977-1978
Secretarial Guidelines To Processing Pupils In Itinerant Speech, Hearing and Vision Programs
Memo: Speech Referrals (To Districts)
Memo: Suggested District Tracking of Referrals for Itinerant Programs

EXPLANATION OF RATIONALE

I. The procedure that is required is complex because of all the steps demanded in P.L. 94-142. Therefore:

- A. The procedure must be sequenced properly.
- B. Each person subordinate to the supervisor must know what to do at any step in the sequence.
- C. A monitoring system that will detect gaps, oversights, and irregularities through the entire procedure must established.

II. Definitions.

- A. Monitoring - reviewing tracking sheets on file in the central office.
  - reviewing records of instructional staff in the field.
  - reviewing referrals exceeding the ten day limit with no response from the staff.
- B. Irregularities in the procedure -
  - unique situations that do not fit into the established procedure and require a specific individual attention.
  - timelines that are exceeded regarding submission of reports or forms.
  - forms which are incorrect and/or incomplete.

III. Roles.

- A. Supervisor's role - to design and monitor the procedure.

B. Instructional Advisor's role -

- to assist in the monitoring process, including examination of referrals and assistance to staff regarding questions and clarification of the procedure.

C. I.E.P. Implementor's role -

- to assist staff regarding questions and clarification of the procedure.
- to act as the LEA in enrollment, review, and dismissal conferences.
- to report difficulties in procedural operation to the supervisor.

D. I.E.P. Secretary -

- to follow the procedures established for sending the proper forms and letters in proper sequence to the proper individuals.
- to maintain the tracking log.
- to report irregularities in the procedure to the supervisor.

E. Supervisor's Secretary -

- to advise staff of assignments.
- to assist the supervisor in contacting staff regarding irregularities in their implementation in the procedure.

F. Itinerant Instructional Staff -

- to complete evaluations on each pupil referred for an itinerant program.
- to develop IEPs with parental input.
- to initiate Action Request forms to accomplish the necessary steps with parental involvement, district involvement, and tracking.
- to provide special education instruction to pupils requiring this program.
- to provide necessary reviews of the programs, with parental input.

APPENDIX N

PERSONAL NOTE FROM I.E.P. IMPLEMENTOR

APPENDIX O

I.E.P. IMPLEMENTORS' REPORTS

Page

I.E.P. Implementor's Status Chart - monthly report to the I.E.P. Coordinator, copy to supervisor of itinerant program supervisors............ 343

Speech/Hearing/Vision I.E.P. Conferences - Report of I.E.P. Conferences held during 1977-1978
Implementor #1.. 344
Implementor #2.. 345

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial P[illegible]k Road
P. O. Box 179
Nazareth, Pennsylvania 18064

Directions: Please keep up to date and return to A. Stirba, III, at end of each month.

Name: ____________________

Month: ____________________

I.E.P. IMPLEMENTOR'S STATUS CHART

Case Name and Number	District	Date Assigned	Date Contacted		Date Tested	Date of Conference	Date of Prehearing Conference	Date Completed
			I.A.	Psych.				

Speech/Hearing/Vision IEP Conferences

	Parent Attended Conferences				Parent Did Not Attend Conference			
Month	Entry	Revision	Dismissal	Total	Entry	Revision	Dismissal	Total
October		11		11		7		7
November		72		72		68		68
December	63	3	1	67	94	23	16	133
January	28	19	4	51	32	55	14	101
February	13	18	2	33	4	62	7	73
March	14	21	1	36	12	62	3	77
April	5	19	2	26	10	51	7	68
May	8	9	3	20	7	35	37	79
June	1	-	1	2	1	-	4	5
Total	132	89	14	*318	160	288	88	*611
Unclassified			*83				*75	

Total		
	Unclassified	158
	Entries	292
	Revision	377
	Dismissal	102
		*929 Total Conferences and Staffings

This data concerns total conferences in Southern and Northern Regions from October to December and Southern Region only from January to June.

"Joint Classroom Revisions" are not included

*Conference total of 318 and 611 contain unclassified totals from October and November. (83) (75)

Report of IEP Implementor # 1.
September, 1977 - June, 1978

Speech/Hearing/Vision IEP Conferences

	Parent Attended Conferences				Parent Did Not Attend Conference			
Month	Entry	Review	Dismissal	Total	Entry	Review	Dismissal	Total
January	18	3	-	21	28	31	8	67
February	7	6	-	13	14	29	2	45
March	14	24	-	38	15	52	4	71
April	4	10	1	15	13	67	3	83
May	3	3	-	6	2	42	33	77
June	-	-	-	-	-	1	3	4
Total	46	46	1	93	72	222	53	347

Total		
	Entries	118
	Review	268
	Dismissal	54
		440 Total Conferences and Staffings

This data concerns total conferences in the Northern Region.

Report of IEP Implementor # 2.
January - June, 1978

APPENDIX P

BASIC BATTERY OF SPEECH AND LANGUAGE TESTS

SPEECH & LANGUAGE TEST BATTERY September, 1977

At least 2 tests must be given from the appropriate area.

A. ARTICULATION
1. Arizona Articulation Proficiency Scale
2. Informal Assessment
3. Bryngelson - Glaspey Photo Articulation Test OR Goldman Fristoe Test of Articulation... to be compared with norms from the Poole Scale for ages of articulation development.
4. SPS Protocol for whole word accuracy.

B. CONCEPTS
1. Peabody Picture Vocabulary Test (PPVT)
2. Preschool Language Sclae
3. Screening Test for Auditory Comprehension of Language. (STACL)
4. Boehm Test of Basic Concepts

C. SYNTAX
1. PPVT
2. STACL
3. NSST - Northwestern Syntax Screening Test
4. Michigan Picture Language Inventory Screening Items
5. Carrow Elicited Language Inventory - CELI
6. PCLT from Monterey Language Programs
7. Informal Assessment

D. T.M.R. and below
1. PPVT
2. Preschool Language Scale
3. UTLD - Utah Test of Language Development
4. Vineland Social Maturity Scale
5. REEL Scale - Receptive - Expressive Emergent Language Scale
6. Mechan's Verbal Language Development Scale
7. DDST - Denver Developmental Screening Test
8. P.C.L.T.

E. FLUENCY
1. Tottle Stuttering Severity Scale
2. 3 minute conversation or reading yielding a score of stuttered words per minute.
3. "Stuttering Inventory" - Preschool and Elementary or "Stuttering Inventory" - Jr. High and Sr. High

APPENDIX Q

PENNSYLVANIA DEPARTMENT OF EDUCATION REGIONAL REVIEW REPORT

Page

Memorandum from the Department of Education - cover memorandum for report (below) May 19, 1978 349

Specific Intermediate Unit/District I.E.P. Report - Information based on PDE Regional Review team member's visits during the year 351

OA-501 12-67

COMMONWEALTH OF PENNSYLVANIA

May 19, 1978

SUBJECT: IEP Development for Handicapped School-Aged Persons

TO: Intermediate Unit Executive Directors
School District Superintendents

FROM: Carl E. Thornton
Chief
Division of Regional Review
Bureau of Special Education

HKK
Supervisors

Pennsylvania State Standards for the operation of Special Education Programs require that each exceptional school-aged person have an individualized educational program (IEP). The Pennsylvania Department of Education has facilitated timely development of IEP's with additional fiscal support specifically designated for this purpose. Technical assistance was provided by the Bureau of Special Education through the National Learning Resource Center of Pennsylvania to support the successful development and implementation of IEP's statewide. Intermediate Units used the increased funding to employ IEP coordinators who helped to further assist in the development of IEP's in local school districts and intermediate units.

To help insure the development of IEP's for school-aged handicapped persons, this Division reviewed those documents on-site, and gathered information pertinent to compliance. Special education advisors from the Division of Regional Review visited all intermediate unit operated and selected school district operated programs of special education between October 1, 1977 and May 1, 1978 for this purpose.

The result of this on-site review for your local education agency is included with this communication. The information presented is quantitative and makes no reference to quality. Therefore, no judgement of quality regarding the IEP's should be inferred from this report. The data accurately reflects completeness at the time of the on-site review, but may not be representative of the current status of IEP development in your local education agency.

The attached State Summary Report represents a composite of all local education agency reviews and must be considered with the same safeguards that apply to the individual report. For the purposes of clarity, and to help prevent misinterpretation of data, it is recommended that the review reports not be used in isolation from this communication. These combined reports should provide adequate data to satisfy your local information needs. In addition, a complete directory of all local education agency reviews is available in the Bureau of Special Education as public information.

This communication and the attached reports should be shared with your Director of Special Education and other pertinent school personnel you deem appropriate.

If you have any questions concerning the IEP Review Reports, please contact me at (717) 787-4714.

Attachments

Region VII

SPECIFIC I.U./DISTRICT I.E.P. REPORT

check one

____ Program(s) operated in I.U.# ____ by ____ S.D.

X Program(s) operated by I.U.# 20

Number of I.E.P.'s reviewed in specific categories:

			11 S./L.I.
15 E.M.R.	7 S.E.D.	8 L.D.	2 Approved private schools
7 T.M.R.	7 P.H.	5 H.I.	
12 S/P.M.R.	____ B.I.	2/ V.I.	____ Other - specify

76 Total number reviewed

72 Number in basic compliance (With 7 criteria)

2974 Total number of handicapped children enrolled

2974 Number of I.E.P.'s developed

100 Percentage of I.E.P.'s developed

Note: See reverse side for any pertinent observations and/or comments

APPENDIX R

LETTER AWARDING CONTINUED FUNDING FOR THE 1978-1979 YEAR

APPENDIX S

THE FORMATIVE EVALUATION

Page

Sample questionnaire for District Administration............. 356

Specific results of the questionnaires to District Administration.................................... 358

Sample questionnaire for Building Principals................ 360

Specific results of the questionnaires to Building Principals.. 362

Sample questionnaires for Classroom Teachers................ 364

Specific results of the questionnaires for the Classroom Teachers.. 366

Sample questionnaires for Instructional Advisor, I.E.P. Coordinator, and I.E.P. Implementor............... 371

Specific results of the questionnaires to the Instructional Advisor, I.E.P. Coordinator, and I.E.P. Implementor.. 374

Sample questionnaire for itinerant special education personnel.................................... 382

Specific results of the questionnaires to itinerant special education personnel................. 386

Sample questionnaires for parents (color coded for parents who participated vs. parents who did not participate in I.E.P. Conferences)................ 397

Specific results of the questionnaires to parents who attended the IEP Conferences......................... 399

Page

Specific results of the questionnaires to parents who did participate in I.E.P. Conferences................. 401

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: School Administrators

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Feedback On The New Procedures Of The Itinerant Special Education Programs

DATE: December 30, 1977

We are nearly midway through the first year of the new procedures in the itinerant speech, hearing and vision programs, under P.L. 94-142, Education Of All Handicapped Act. In implementing this program we have assumed, with your authority, the responsibilities, in addition to the actual instructions described here briefly:

1. Full tracking of pupils in itinerant programs following referral to the I.U.
2. Evaluation of the pupils.
3. Holding conferences with parents to explain the program and invite their participation in the programs, including an annual review of the programs.
4. Serving the due process forms to parents.
5. Providing a local educational agent (LEA) for the entry and review conferences.
6. Providing a report on the enrollment and dismissal of pupils.

Will you kindly share your reactions to this new procedure by completing the remainder of this form and returning it at your earliest convenience. Thank you for your time and responses by January 20, 1978, if possible.

1. Do you feel that you understand our program procedures to your satisfaction? ___Yes ___No

2. Understanding the requirements of P.L. 94-142, are there any aspects in our procedure that you would like to see changed?

3. Have you had parental response to the program/procedure this year?
   ___Yes ___No

   If yes, it was ___positive ___negative Comment:

4. Have you had response from other administrators or teaching staff regarding the program/procedure this year? ___Yes ___No

   If yes, it was ___positive ___negative Comment:

5. Do you feel that the increase in parental involvement will improve the progress of pupils in the itinerant programs?
   ___Yes ___No

6. Do you feel that the increased parental involvement in itinerant programs has resulted or will result in greater interest and involvement in the regular education program?
   ___Yes ___No ___No Opinion

7. If there are additional comments you wish to share, please use the remaining space on the sheet. If you wish to discuss the program or procedure in greater detail, please call (215) 759-7600 or (717) 992-4145.

RAG:khp

Specific results of the questionnaires to
District Administrators - 20 responses

Below is a summary of the responses of the district administrators.

1. Do you feel that you understand our program procedures to your satisfaction?

19 Yes

1 No

2. Understanding the requirements of P.L. 94-142, are there any aspects in our procedure that you would like to see changed?

2 Yes

"The time element of getting students processed."
"Speed evaluations."

18 No

"It is very helpful that I.U. 20 has done much of the 94-142 paperwork involved with each case."

3. Have you had parental response to the program/procedure this year?

6 Yes (6 positive)

"Parents have been extremely cooperative in the referral and evaluation processes and many have participated in the IEP conferences."

"Problems encountered were internal. Hopefully we have taken care of these."

"I believe that the parents are more involved and better understand the program."

14 No parental response.

4. Have you had response from other administrators or teaching staff regarding the program/procedures this year?

10 Yes (6 positive, 3 negative, 1 neutral)

"The program appears to be well organized. Although students may not always be enrolled as quickly as we might like we recognize that it is being done as quickly as the law allows."

"Since you have assumed the responsibility for the administration of the itinerant programs the negative feedback has not been so much to speech, hearing, and vision, but to the other special education programs."

"They were concerned with the amount of paperwork, but they understand that it is the law."

"No news is good news."

5. Do you feel that the increase in parental involvement will improve the progress of pupils in the itinerant programs?

18 Yes

2 No

6. Do you feel that the increased parental involvement in itinerant programs will result in greater interest and involvement in the regular education programs?

13 Yes

7 No

7. Additional comments:

"Keep up the good work!"

"We are extremely grateful for the fine cooperation and service we have received from the I.U. staff in the Itinerant Special Education Programs. We feel that our students are benefitting greatly from the programs."

"All regulations are being met as outlined."

"Are we teaching pupils or pushing pencils? I realize this is State and Federal mandated."

"Reaction from administration and staff has been that the exceptional child is getting more attention, staff, and resources than the regular student in regular class. 'Least restrictive' is a fine idea. We're having problems over reacting."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Principals

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Feedback On The New Procedures Of The Itinerant Special Education Programs

DATE: December 30, 1977

We are nearly midway through the first year of the new procedures in the itinerant speech, hearing and vision programs, under P.L. 94-142, Education Of All Handicapped Act. In implementing this program we have assumed, with your authority, the responsibilities, in addition to the actual instructions described here briefly:

1. Full tracking of pupils in itinerant programs following referral to the I.U.
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4. Serving the due process forms to parents.
5. Providing a local educational agent (LEA) for the entry and review conferences.
6. Providing a report on the enrollment and dismissal of pupils.

Will you kindly share your reactions to this new procedure by completing the remainder of this form and returning it at your earliest convenience. Thank you for your time and responses by January 20, 1978, if possible.

1. Do you feel that you understand our program procedures to your satisfaction? ___Yes ___No

2. Understanding the requirements of P.L. 94-142, are there any aspects in our procedure that you would like to see changed?

3. Have you had parental response to the program/procedure this year?
   ___Yes ___No

   If yes, it was ___positive ___negative Comment:

4. Have you had response from other administrators or teaching staff regarding the program/procedure this year? ___Yes ___No

   If yes, it was ___positive ___negative Comment:

5. Do you feel that the increase in parental involvement will improve the progress of pupils in the itinerant programs?
   ___Yes ___No

6. Do you feel that the increased parental involvement in itinerant programs has resulted or will result in greater interest and involvement in the regular education program?
   ___Yes ___No ___No Opinion

7. If there are additional comments you wish to share, please use the remaining space on the sheet. If you wish to discuss the program or procedure in greater detail, please call (215) 759-7600 or (717) 992-4145.

RAG:khp

Specific results of the questionnaires to
Building Principals - 15 responses

Below is a summary of the responses of the building principals.

1. Do you feel that you understand our program procedures to your satisfaction?

11 Yes

4 No

"No, referral procedure is handled by (district) staff member."

2. Understanding the requirements of P.L. 94-142, are ther any aspects in our procedure that you would like to see changed?

5 Yes

"Too lengthy, time consuming."

"Very poor communication."

"Accelerated from time of referral to classes begin."

"Referrals need to be handled within the prescribed six weeks."

"Speed up time from referral to actual therapy."

"It seems the children suffer loss of program time while teachers are required to spend instructional time writing."

8 No

3. Have you had parental response to the program/procedure this year?

6 Yes (2 positive, 3 negative, 1 positive and negative)

"Several parents were confused by the legelese."

"Too soon to judge."

"Communication to parents (should) be simplified."

"Permission letters scared them."

9 No

4. Have you had response from other administrators or teaching staff regarding the program/procedure this year?

10 Yes (1 positive, 7 negative, 2 positive and negative)

"Too much paperwork in the beginning made difficulties in scheduling and involved personnel in instruction.:

"Time lapse from initial referral until placement in program."

"Comment of concern because of added delay due to due process procedures."

5 No

5. Do you feel that the increase in parental involvement will improve the progress of pupils in the itinerant programs?

11 Yes

3 No

"Unless parents are not 'mailed' materials and forms to sign that they do not understand."

"No, only after child is in the program."

1 No response

6. Do you feel that the increased parental involvement has resulted or will result in greater interest and involvement in the regular education program?

5 Yes

5 No

1 No opinion

1 No response

7. Additional comments:

"Your continued cooperation is saluted and appreciated."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Classroom Teacher

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Feedback On The New Procedures Of The Itinerant Speech, Hearing And Vision Programs

DATE: December 30, 1977

As you are probably aware, the new Federal Law (P.L. 94-142), Education For All Handicapped Act, became effective during this 1977-1978 school term. In order to comply with this law several changes have been implemented in the itinerant speech, hearing and vision programs. We would like to hear your feelings regarding our program and the changes. Will you kindly take a few moments to complete this form, sent to you and 54 other teachers through random selection. A pre-stamped self-addressed envelope has also been included for the return of this form at your earliest convenience by January 20, 1978, if possible.

1. Do you feel that you are familiar with the basic ideas of P.L. 94-142 (Education of All Handicapped Children Act?) ___Yes ___No

   If you answered "No" you may wish to discuss this with the special ed. therapist/teacher serving pupils in your building.

2. Have you noticed any changes in the itinerant program this year? ___Yes ___No If yes, please comment:

3. Has the speech therapist, hearing therapist, or teacher of the visually limited been available to you more this year (directly or through faculty meetings)? ___Yes ___No

4. Have you had more response this year than in past years from parents regarding the itinerant speech, hearing, or vision programs? ___Yes ___No

5. With a greater amount of parental involvement offered to parents of pupils in the itinerant program, do you feel that there will be greater progress in the special programs? ___Yes ___No

6. Have parents of pupils in itinerant programs been involved to a greater extent in the regular education program? (Has the effect generalized?) ___Yes ___No

7. Do you have any specific or general opinions or suggestions to make to help us to improve the itinerant speech, hearing, or vision programs?
___Yes ___No

8. Do you have any general comments that you wish to share with us regarding our program? Please feel free to write them below and/or on the reverse of this sheet. You may also call me at (215) 759-7600 or (717) 992-4145 with questions or concerns that you wish to discuss. Thank you.

RAG:khp

Enclosure

Specific results of the questionnaires to
Classroom Teachers - 41 responses

Below is a summary of the responses of the classroom teachers.

1. Do you feel that you are familiar with the basic ideas of P.L. 94-142?

24 Yes

17 No

2. Have you noticed any changes in the itinerant programs this year?

26 Yes

"The therapist spent hours writing lengthy programs."

"More complex registration procedure."

"It takes longer for a pupil to be enrolled in a program."

"Everything is taking so much longer."

"Speech therapist has more paperwork and new students needing speech therapy had to wail longer to start."

"It takes longer for a child to be placed in program due to paperwork involved."

"Many children who were referred by me this year are still not been seen on a regular basis."

"The referral procedure takes longer. Parents are apprehensive about filling out the forms."

"Delay in therapist picking up new referral, due to need to process parental permission form to comply with law."

"For the children that have more severe problems and do enter the program it takes a longer period of time to enter due to the paperwork."

"Not as effective."

"Not as much help."

"Takes too long to process students, before therapy can be started."

"The procedures for referral for eventual itinerant work with referred children now seems unnecessarily complicated and time consuming - much valuable time is wasted before referred children actually begin receiving help."

"The therapist is in the building less time this year. She seems to be loaded with paperwork."

"More staff is needed. There is too much work for one therapist, thereby cutting down on her effectiveness."

"It began much later than usual."

"I have been very pleased with our speech program.

"It took so long to get the speech classes going."

"More forms, more time elapsed until child taken."

"...due to all the paperwork it takes much longer to begin a program with a child."

"It takes much longer for a child to obtain needed help."

"My children with speech problems are still not being helped in kindergarten."

"Yes, it takes longer to get a child into the program, but I've also noticed that each candidate is considered more 'totally' than before (more testing, more classroom teacher involvement."

13 No

2 No response

3. Has the speech therapist, hearing therapist, or teacher of the visually limited been available to you more this year?

15 Yes

23 No

"No, but is always willing to confer if need be."

"No, I've always found her to be available when I need her."

"We always had good rapport with our speech therapist."

"No, but she is conscientious and concerned that she is meeting our needs."

"IEPs take her time."

3 No response

4. Have you had more response this year than in past years from parents regarding the speech, hearing, or vision programs?

16 Yes

"Yes, seems to be more parent-teacher communication."

"Yes, they are wondering when their children will begin therapy."

"Yes, but more concerned about the paper they have to fill out."

21 No

"Not much difference."

"My parents have inquired several times why their children's speech therapy has not been started."

4 No response

5. With a greater amount of parental involvement offered to parents in the itinerant program, do you feel that there will be greater progress in the special programs?

27 Yes

"Hopefully."

"Many parents feel inadequate and unqualified to participate in this phase of the program."

"Depends on the family involved."

"Yes, if the parents participate as fully as the program requires."

"Yes and no. It will be as it always was. Some will be involved and some won't."

10 No

4 No response

6. Have parents of pupils in itinerant programs been involved to a greater extent in the regular education program? (Has the effect generalized?)

8 Yes

"Parent involvement is not apparent (in my case). But I have noticed more involvement with parent and child in other classes in my school."

31 No

"No more than before."

2 No response

7. Do you have any specific or general opinions or suggestions to help us to improve the itinerant speech, hearing, and vision programs?

16 Yes

"More concern for our children."

"It should be done as it was previously."

"Have simpler forms."

"Reduce or simplify the amount of paperwork involved in placement."

"Speed up process of permission to start therapy after screening."

21 No

4 No response

8. General comments:

"It takes entirely too long to get the speech program actually in progress in the fall. The students are the ones that suffer."

"I'm also against the mountain of paperwork."

"I feel that the speech program that my students are involved in is excellent; the students feel like they are fortunate to be included in it. It is working out great. I feel pleased with their progress and so do their parents."

"Actual service rendered through the itinerant programs is extremely valuable and beneficial to the children involved. This help is greatly appreciated by the classroom teachers."

"I feel that the teachers involved in this program are superior."

"Some (parents) were upset and wanted their children taken out of the program. The form concerned with speech therapy was misleading."

"It seems as if this new law is slowing things down."

"Forms should not seem formidable to parents. They should be in lay terms."

"Speech clinician is very effective once she has full permission to work with a child."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Feedback On The New Procedures For Itinerant Programs

DATE: December 30, 1977

Now that we are nearly midway through the first year of working with the P.L. 94-142 I would like you to take a few moments to reflect back over the past few months. The procedure that has been initiated in the itinerant programs has as its goal the management of a large number of pupils with a minimum of itinerant specialists time devoted to paperwork. This should allow more time for instruction time. With increased parental involvement this instruction time should be maximized. We hope to see the benefits in increased pupil progress in these itinerant programs.

We do not have "the perfect system" however. I would like to know your opinion and suggestions regarding the newly implemented procedure in the itinerant programs. Will you please complete the attached form and return it to me by January 20, 1978. Thank you for your time. Your responses will be appreciated.

RAG:khp

Attached

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Robert A. Green

FROM:

SUBJECT:

DATE:

1. Do we have a workable system of referral and placement in the itinerant program? ___Yes ___No

2. How can this system be improved?

3. Is our current goal of placement of a pupil in our itinerant program within a month realistic? ___Yes ___No

4. What is the average placement time for a pupil entering the itinerant program--from referral receipt to entry? _____days.

5. How can we process pupils into itinerant programs faster?

6. Will the new procedure result in increased progress in the pupils enrolled in these programs?

   ____Yes ____No ____No Opinion

   Why--or why not?

7. Will the initial parental involvement result in greater pupil progress? ___Yes ___No ___No Opinion

8. Could parental involvement be accomplished in a better way? How?

9. Will the parental involvements in the IEP reviews help the pupils' progress? ___Yes ___No ___No Opinion

10. Could parental involvement in reviews be accomplished in a better way? How?

11. From on-site visits or other modes of feedback, are the itinerant specialists utilizing the new procedures? ___Yes ___No

If yes, at what percentage of effectiveness ___%

How can this utilization and effectiveness be improved?

12. Generally, how effective is the procedure in improving our itinerant programs: ___%

How can this be improved?

13. In my opinion, the reaction to this procedure:

(a) by administrators is generally __satisfactory
__unsatisfactory
__cannot judge
(b) by principals, supervisors is generally __ satisfactory
__ unsatisfactory
__ cannot judge
(c) by teachers is generally __satisfactory
__unsatisfactory
__cannot judge
(d) by parents is generally __satisfactory
__unsatisfactory
__cannot judge
(e) by pupils is generally __satisfactory
__unsatisfactory
__cannot judge

14. Other opinions, suggestions and/or comments regarding this new procedure are:

Specific results of the questionnaires to the
Instructional Advisor - 1 response

1. Do we have a workable system of referral and placement in the itinerant programs?

_1_ Yes

_0_ No

2. How can this system be improved?

"Improve involvement of psychologists testing; more help for IEP secretary; additional implementors."

3. Is our current goal of placement in our itinerant program within a month realistic"

_1_ Yes

_0_ No

4. What is the average referral placement in the itinerant programs-from referral receipt to entry?

_38_ Days

5. How can we process pupils into itinerant programs faster?

"Your system appears to be the most realistic and thorough, considering the amount of paperwork involved. The present system seems to be the answer."

6. Will the new procedure result in increased progress in the pupils enrolled in these programs?

_0_ Yes

_0_ No

_1_ No opinion

"Not from what I've seen that the parents have to offer during the IEP conference."

8 Could parental involvement be accomplished in a better way?

"I don't think so."

9. Will parental involvement in the IEP reviews help the pupils' progress?

0 Yes

0 No

1 No opinion

"Most parents seem to accept the professional judgement of therapists and teachers."

10. Could parental involvement in review be accomplished in a better way? How?

"Involve therapists and teachers in classroom parent-teacher conferences."

11. From on-site visits or other modes of feedback, are the itinerant specialists utilizing the new procedure?

1 Yes

0 No

At what percentage of effectiveness?

90 %

How can this utilization and effectiveness be improved?

"Faster processing of Action Requests. Faster referrals on the part of (classroom) teachers."

12. Generally, how effective is the procedure in improving our itinerant programs?

95 %

"The tracking system of screened students is ahead of its time. Information on a student's status is at our fingertips. Communication is a simple matter and there are no doubts as to what is to be done."

13. In my opinion, the reachtion to the procedure:

a. by administrators is satisfactory.
b. by principals, supervisors is generally - cannot judge.
c. by teacher is generally satisfactory.
d. by parents is generally satisfactory.
e. by pupils is generally - cannot judge.

14. Other comments:

"Better communication between the I.U. and district personnel is needed. I realize that you've made yourself available to them, but they still are down on therapists and teachers because of the amount of time it takes... they don't understand."

Specific results of the questionnaire to the
I.E.P. Coordinator - 1 response

1. Do we have a workable system of referral and placement in the itinerant program?

_1_ Yes

_0_ No

2. How can this system be improved?

No response

3. Is our current goal of placement of a pupil in our itinerant program within a month realistic?

_1_ Yes

_0_ No

4. What is the average placement time for a pupil entering the itinerant program -- from referral recept to entry?

No response

5. How can we process pupils into itinerant programs faster?

No response

6. Will the new procedure result in increased progress in the pupils enrolled in these programs?

No response

7. Will the initial parental involvement result in greater pupil progress?

No response

8. Could parental involvement be accomplished in a better way? How?

No response

9. Will the parental involvements in the IEP reviews help the pupils' progress?

No response

10. Could parental involvement in reviews be accomplished in a better way? How?

No response

11. From on-site visits or other modes of feedback, are the itinerant specialists utilizing the new procedures?

1 Yes

0 No

If yes, at what percentage of effectiveness?

90 %

How can this utilization and effectiveness be improved?

No response

12. Generally, how effective is the procedure in improving our itinerant programs?

No response

13. In my opinion, the reaction to this procedure:

a. by administrators is generally - cannot judge.
b. by principals, supervisors is generally - cannot judge.
c. by teachers is generally unsatisfactory.
d. by parents is generally satisfactory.
e. by pupils is generally - cannot judge.

14. Other comments:

"Most of your procedures are better spoken to by those actually involved with them, i.e. principals, itinerants, etc. As far as I am concerned, it meets our administrative needs in the best possible manner. If I come up with any short cuts I'll let you know."

Specific results of the questionnaire to the
I.E.P. Implementor - 1 response

1. Do we have a workable system of referral and placement in the itinerant program?

1 Yes

0 No

"The system itself works."

2. How can the system be improved?

"I think we need to find a way to speed up the process."

3. Is our current goal of placement of a pupil in our itinerant program within a month realistic?

0 Yes

1 No

"So far it hasn't been. I have some pupils who were conferenced on in November and they aren't due processed yet."

4. What is the average placement time for a pupil entering the itinerant program -- from referral receipt to entry?

45 Days

5. How can we process pupils into itinerant programs faster?

"The lag seems to be in district receiving permission to the point of notification of specialists, and office lag time in processing and tracking Action Requests."

6. Will the new procedure result in increased progress in the pupils enrolled in these programs?

1 Yes

"With parent involvement."

1 No

"If they don't get in faster."

Why, or why not?

"Overall, the program has benefits to itinerants, children and parents - the potential is good."

7. Will the initial parental involvement result in greater pupil progress?

1 Yes

0 No

"I think it could."

8. Could parental involvement be accomplished in a better way? How?

"Possibly having a time provision in the evenings for working parents. A lot of parents have been unable to attend the conference due to work."

9. Will paretnal involvements in the IEP reviews help the pupils' progress?

1 Yes

0 No

"I think it will help to keep parents aware of the program and a good reminder to 'keep up their end'."

10. Could parental involvement in reviews be accomplished in a better way? How?

It may be faster if therapists send letters out."

11. From on-site visits or other modes of feedback, are the itinerant specialists utilizing the new procedures?

1 Yes

0 No

"I think they're handling it very well."

If yes, at what percentage of effectiveness?

95 %

How can this utilization and effectiveness be improved?

"Less lag time in the office."

12. Generally, how effective is the procedure in improving our itinerant programs:

> "I don't know a percentage. I think the idea of the program is good -- especially in the idea of the plan itself and the parent conferences. It's forcing professionals to really know what they're doing and increasing parent awareness and cooperation."

How can this be improved?

> No response

13. In my opinion, the reaction to this procedure:

a. by administrators is generally - cannot judge.
b. by principals, supervisors is generally satisfactory and unsatisfactory; "I've seen good and bad reactions."
c. by teachers is generally satisfactory and unsatifactory; "where there is lag time."
d. by parents is generally satisfactory and unsatisfactory; "where there is lag time."
e. by pupils is generally - cannot judge.

14. Other comments:

> "I am still not satisfied with the acceptance of those procedures in the schools. Due to changes and increased paperwork and delays in getting children into therapy, I think our itinerant staffs are getting a lot of undue criticism. I think we must work to achieve a better understanding of Act 94-142 in the schools themselves and among parents. Parent participation in conferences has helped with parental understanding and acceptance."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Itinerant Speech, Hearing And Vision Personnel

FROM: Robert A. Green

SUBJECT: A Request For Feedback On Our New Procedure

DATE: December 30, 1977

The attached questionnaire has been prepared to provide feedback on our new procedure being implemented in the itinerant programs. In addition to our staff meeting discussions it will aid us in making decisions regarding the procedure for the remainder of this year.

Please take the few monments necessary to complete the questionnaire and send it back to the Intermediate Unit Office by January 20, 1978. Thank you for your time and thoughts.

When answering the questions please keep in mind the various regulations the 94-142 demands of special education instruction.

RAG:khp

Enclosures

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Robert A. Green

FROM:

SUBJECT: Staff Feedback On The New Procedures For Itinerant Programs

DATE:

1. Overall do you feel that we have a workable system of referral in the Intermediate Unit Number 20 itinerant programs ___Yes ___No

2. How can the system be improved?

3. Is our current goal of placement of a child in itinerant programs within a month realistic? ___Yes ___No

4. What is the average placement time for a pupil entering the itinerant program--from the time a referral is processed in the office (when you are informed of its receipt) until the child is in the program receiving instruction? ____days.

5. How can we process pupils into itinerant programs more quickly?

6. In your opinion, will our new procedure involving parents result in greater degree of progress in the pupils enrolled in these programs? ___Yes ___No Please explain why, or why not.

7. In your opinion, could poostive parental involvement be achieved in a better way? ___Yes ___No ____No Opinion

Comment:

8. In your opinion will the parental involvements in IEP reviews help in the educational progress in your programs?
___Yes ___No ___No Opinion

Comment:

9. Could these reviews be completed in a more effective manner?
___Yes ___No

Comment:

10. Generally how effective is the procedure in improving the itinerant program in the aspects of:

A. Tracking accomplished in the central office. ____%
B. Efficiency of organization of the required paperwork. ____%
C. Decrease of paperwork required in previous years (lengthier monthly reports, new entries, dismissals lists, pupils lists, reports on evaluations, etc.). ____%
D. Parental acceptance of the program. ____%
E. Increase in educational benefits to pupils. ____%

11. In your opinion, the reaction to the new procedure:

a. by administration is	___satisfactory	___unsatisfactory	___cannot rate
b. by principals, supervisors is	___satisfactory	___unsatisfactory	___cannot rate
c. by teachers is	___satisfactory	___unsatisfactory	___cannot rate
d. by parents is	___satisfactory	___unsatisfactory	___cannot rate
e. by pupils is	___satisfactory	___unsatisfactory	___cannot rate

If you marked any items unsatisfactory, how can these be improved?

12. Please list any suggestions or comments regarding this procedure.

RAG:khp

Thank you for your feedback.

Specific results of the questionnaires to
Itinerant Special Education personnel; speech therapists, hearing therapists, and teachers of the visually limited - 30 responses

1. Overall, do you feel that we have a workable system of referral in the Intermediate Unit 20 itinerant programs?

   29 Yes

   "The system has run smoothly as far as I was involved."

   1 No

2. How can the system be improved?

   "Give the secretary more help to keep things current."

   "There's a big tie up in the I.U. office."

   "I feel that once everyone becomes more familiar with the process and this year's rush subsides we will see that our system is a good one."

   "More help is needed in tracking all the referrals."

   "Evaluations need to be completed more quickly."

   "It must move faster."

   "More personnel to do the paperwork and the conferences on IEPs and reviews."

   "More secretarial help seems to be a need accounting for us being so behind schedule."

   "Educating the districts with in-services on P.L. 94-142."

   "Time lapses between steps in the referral procedure must be shortened."

   "Eliminate Action Requests."

   "Second grade screening."

   "Time lags need to be overcome so that therapy time is not lost to such a large degree."

   "In-service programs to classroom teachers on identification of speech, hearing, vision problems."

   "Distribute a checklist of behavior characteristics of a speech/hearing handicapped child -- something short and readable."

"It seems as good as the inevitable state of bureaucracy will allow."

"When a letter of IEP conference or due process is sent out -- placing a note in our box letting us know where we are in all the paperwork with that particular child, might help."

"Speed - this comes with time and experience. I have a feeling that things will go much faster and smoother next year."

"Parents are the ones causing the delays."

3. Is our current goal of placement of a child in itinerant programs within a month realistic?

14 Yes

15 No

1 No response

4. What is the average placement time for a pupil entering the itinerant program -- from the time a referral is processed in the office until the child is in the program receiving instruction?

Average time:

15 - 30 days	31 - 45 days	46 - 60 days	61 - 75 days	76 - 90 days	91 - 105 days	106 -120 days
4	7	8	2	1*	0	1*

*One referral for vision of one teacher, thus the average time was the time of the one incident in each case cited.

5. How can we process pupils into itinerant programs more quickly?

"More clerical help."

"Too many forms."

"Secretary needs more help."

"Have therapists send parent conference letters out and place Action Requests as top priority staff work."

"There seems to be a lag in receiving parental permission for psychological evaluations."

"Time and experience."

"The tracking process is slowing things down."

"When the I.U. receives an Action Request it should go out that day... also the IEP Implementor must be informed everyday."

"By handling more paperwork in one conference with parents rather than time delay mailing back and forth."

"There were times when I had to wait up to three weeks before I could schedule a conference."

"Decrease time between I.U. receipt of referral and when I am informed of the referral."

"Inservice for teachers and principals as to need to expedite matters quickly."

"Increased secretarial staff - office."

"Have psychological evaluations done sooner."

"Perhaps more secretarial help is needed."

"Hire a secretary to alleviate problems, much of the problem in my case stems from the small percentage of teachers who don't take the time to fulfill their obligations, i.e. fill out the referrals promptly and correctly."

"If we sent home conference forms, it could save a lot of work at the I.U."

"The papers are handled by too many people... Principals, therapists, and the IU have to handle their parts in the placement alot faster."

6. In your opinion, will our new procedure involving parents result in a greater degree of progress in the pupils enrolled in these programs?

14 Yes

16 No

Why or why not?

"Parents come to conferences and become involved if they are interested in the program and their child's process in it."

"Increase in parent awareness and places a tangible plan in their hands - they know exactly what the child's problem is and how it can be dealt with."

"Parents that were involved before will continue to be involved and may be responsible in part for progress in their children. I don't think think that participation in an IEP conference will spark generally uninvolved parents into action."

"The IEPs involve parents in their child's progress and any difference can be brought out during the conferences."

"Most parents have not come in for IEP conferences to my knowledge."

"Those parents who are interested in their child's program are involved whether we use our new procedure or not."

"I feel as parents become aware of what progress their child should be making, they will help the child at home. I am getting even more cooperation at home than before."

"Parents are probably not sure of how to provide their children with at-home exercises regarding the specific areas of hearing therapy. But, when they see the steps the therapist is using in their IEPs, I think they get their own ideas about what to do at home."

"We do not have as much time to work with students; too much time and effort is involved in writing and rewriting goals; same percentage of parents are interested as before."

"No, because the same parents who are interested in their children's progress are the ones who come in for the conferences as usual, the rest of the parents simply ignore the letters."

"At this point I feel progress is not related to parent involvement. Parents have been involved in the past without IEP procedures."

"It's great public relations to meet with the parents from the outset."

"The parents have a better understanding of my role and what is planned for their child. Success rate can be discussed at conferences and this I feel encourages the parent to support home-practice."

"Parents should be more motivated to help their children at home if they are made more aware of therapy plans and procedures."

"I already had the parents involved as an integral part of my therapy."

"Why should a new procedure change attitudes? People are too disinterested and busy to share the responsibility."

"I think that now the parents know exactly what we plan for their children and what we hope to accomplish. They will be more able and willing to carry over some exercises at home."

"I don't feel it changes their concerns any."

"It will be difficult for the parents to remain apathetic about the special programs in which their children are participating."

"I always involved the parents as much as the new procedure calls for."

"Interested parents attend conferences and express a desire to help children at home. Posession of an IEP may lead them to try to do things the therapist would not advise. Also the formality and red tape have undoubtedly served to increase anxiety in the parents over their child's problem."

"Ideally it should, because parents will know goals and probably will be more aware of kinds of errors they can correct, and parents will know speech therapists really do exist and should have more responsibility for returning assignments, answering notes, et. al."

"If we can reach just one (more) parent we're progressing."

"Hopefully they will become more aware of their part at home to help the child correct his problem."

"No, parents most generally desire conferences on the progress of students, not to help plan his program. Review part is good. IEP planning of little value."

"No - out of 30 IEP conferences, only one parent attended."

"No - only the interested parents come in for the conferences. They would work with their children at home if they would come in or not."

"No, only the parents who were involved last year are coming to conferences. The other parents could care less."

"I honestly feel that the parents who would have shown interest without IEPs will be those showing interest and helping their children now. Simply because a parent comes to a conference does not indicate they will help a child at home."

7. In your opinion, could positive parent involvement be achieved in a better way?

11 Yes

15 No

4 No opinion

"Two way communication is the best way to have positive parental involvement."

"A parent who does not want to get involved won't in spite of our concerns."

"This system forces the therapist to contact the parent, but the motivation of the parents is really critical."

"I am contacting parents by phone or letter to explain what they will be receiveng."

"Parents could give us areas to work on beforehand in an informal way - phone calls - letters."

"Yes, but I don't thave the answer."

"Yes, as in the past."

"By having the parents coming in and working with their children, but most parents don't have that kind of time."

"I believe in actual personal confrontation with a person to achieve the best results."

"Request attendance in observations of sessions."

"(Hold) informal group meetings of parents of children in our programs."

"Emphasis on the parental role in aiding the remediation of the problem instead of on legalities."

"By strongly encouraging observation of therapy."

"By giving every child a home carry-over assignment when possible."

"No, this is a good way to involve the parents in their children's program, possibly the best way."

"No, regular conferences that I had over the phone and in person before were about the same involvement except now I see more in person."

"Yes, parent contact by phone to inform them of child's program and what will be worked with at the start of the program, then just due process paper sent."

"No. In addition to the IU letters I call parents at least once and also send home several notes."

"Parents have a right to know what is going on, but I don't feel they should dictate what is to be done."

8. In your opinion, will the parental involvement in IEP reviews help in the educational progress in your programs?

16 Yes

12 NO

1 No opinion

"Most parents don't have the background in educational programs and trust our judgement."

"It will remind parents to keep involved in their children's progress."

"I'm not very optimistic, but it's still a good idea for parents to know what is and has been done for their child even if their involvement does not directly affect the progress of their child."

"Yes, the parents do take part and therefore home and school involvement can take place."

"No, parents often say they trust us as professionals and would rather we do everything."

"Having a review reminds the parents that their child is in speech and may rekindle their interest in helping."

"At the time of review the parents will know what we are working on in therapy and will be able to state if there has been any carry-over in the home situation."

"No...only the therapist can determine if the IEP is still appropriate."

"No... therapist reviews should help educational progress in programs."

"Yes, the reviews will help the parents to be continually aware of the progress their child is making in the program that has been outlined for them."

"No, only if parents assume responsibility for work at home."

"Yes, the parents can see what has been accomplished and what has to be worked on."

"Yes... if a child is not benefitting sufficiently this gives a good opportunity to discuss goals."

"No, I feel that parents feel inadequate and will offer little input."

"No - considering the exceptionalities with which I deal, the reviews show little change from the original IEP."

"Yes, the parents will know where their child is in relation to correcting his speech problem. If he isn't doing well maybe the parents will provide an insight to the reason."

9. Could these reviews be completed in a more effective manner?

10 Yes

12 No

1 No opinion

1 No response

"I do not feel the need for an LEA representative or anyone else to be involved in most cases."

"Yes, I see no need to call the parents in for them - the therapist and IA should be able to review them."

"Yes, I see no need to send letters inviting parents to participate in a conference. I feel this could be better accomplished through personal phone calls."

"Reviews should be requested by the parent, not the unit."

"Via telephone or note contact."

"Only by allowing the therapist to schedule them without having to fit them into an IEP Implementor's schedule."

"Utilize mail correspondence rather than in-person visits."

"Letter to parents stating date and time of review with parent contacting therapist only if they are unable to attend."

10. Generally, how effective is the procedure in improving the itinerant program in the aspects of:

a. Tracking is accomplished in the central office.

91 - 100% -- 3 responses
81 - 90 -- 5
71 - 80 -- 1
61 - 70 -- 2
51 - 60 -- 0
41 - 50 -- 4
31 - 40 -- 2
21 - 30 -- 2
11 - 20 -- 0
0 - 10 -- 1

b. Efficiency of organization of required paperwork.

91 - 100% -- 2 responses
81 - 90 -- 6
71 - 80 -- 4
61 - 70 -- 1
51 - 60 -- 0
41 - 50 -- 1
31 - 40 -- 0
21 - 30 -- 5
11 - 20 -- 0
0 - 10 -- 3

c. Decrease of paperwork required in previous years.

91 - 100% -- 3 responses
81 - 90 -- 3
71 - 80 -- 1
61 - 70 -- 0
51 - 60 -- 0
41 - 50 -- 2
31 - 40 -- 0
21 - 30 -- 1
11 - 20 -- 2
0 - 10 --10

d. Parental acceptance of the program.

91 - 100% -- 3 responses
81 - 90 -- 2
71 - 80 -- 4
61 - 70 -- 0
51 - 60 -- 0
41 - 50 -- 5
31 - 40 -- 1
21 - 30 -- 1
11 - 20 -- 2
0 - 10 -- 5

e. Increase in educational benefits to pupils.

91 - 100% -- 1 responses
81 - 90 -- 1
71 - 80 -- 0
61 - 70 -- 0
51 - 60 -- 1
41 - 50 -- 4
31 - 40 -- 0
21 - 30 -- 1
11 - 20 -- 0
0 - 10 --14

"The organization seems good, but the down time is incredible, which makes the whole thing inefficient."

11. In your opinion, the reaction to the new procedure:

	Satisfactory	Unsatisfactory	Cannot rate
a. by administrators is:	8	3	18
b. by principals, supervisors is:	13	8	7
c. by teachers is:	11	14	3
d. by parents is:	7	3	18
e. by pupils is:	7	3	18

If marked "unsatisfactory," how can these be improved?

"Just time for them to adjust."

"Most persons realize the program is new and we are all learning, many times through mistakes."

"Parents and teachers feel the procedure is taking too much time before the student is placed."

"The I.U. could inform (classroom) teachers of processes involved.

the amount of work involved, etc. They complain because they just don't know what's happening."

"Factor of time has to be shortened somewhat. I do not feel that administration in the districts is very much concerned with IEPs. It seems that they feel it is not part of their responsibility since directions come from the I.U."

"I'm sure the system will gradually improve as the time involved with paperwork is reduced. But everybody is now unhappy with the length of time it takes to get a new student in therapy and with all the paperwork involved."

"I think an in-service should be held specifically for principals and not just the head district person."

"More secretaries to help the process along."

"Decrease the time factor from screening to due process."

12. Please list any suggestions or comments regarding this procedure.

"The paperwork in the I.U. must be organized better - procedures are slow."

"I believe we have a good system at the present time."

"Teachers haven't referred thoroughly. They aren't good at identifying problems."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Parents Of Pupils In I. U. #20 Speech, Hearing Or Vision Program

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Your Reaction To Our Program

DATE: December 30, 1977

As you are aware, this year a new procedure has been used in the referral and placement of your child into the part-time instruction in speech, hearing, or vision.

We are trying to improve our program and offer greater parental involvement. We would like to know your reactions. Will you kindly complete this sheet and return it in the enclosed pre-stamped envelope at your earliest convenience. Thank you! You need not identify yourself on this sheet. If you have specific concerns about the program, please call your child's special teacher at school or call me at (215) 759-7600 or (717) 992-4145.

1. Generally, are you satisfied with the special program (speech therapy, hearing therapy, or vision instruction) that your child is receiving? ___Yes ___No

   Comments:

2. Were you given the opportunity to meet the special teacher and discuss your child's program? ___Yes ___No

3. If you were involved in the program, were you satisfied with the conference? ___Yes ___No ___We were not involved in the program planning.

   Comments:

4. We now (a) require the parent's permission before we evaluate the children.
   (b) invite parents to conference with the special teacher about the test results and the program.
   (c) require parental permission before we enroll the child in the special program.
   (d) invite parents to review the child's progress and revise program plan on a basis of at least once each year.
   (e) explain your rights to a hearing if agreement regarding a program is not reached.

Do you feel that this is a good procedure to continue?
___Yes ___No ___No Opinion

Comments:

5. Do you feel that our new procedure will increase the child's progress (by having more parental involvement)?
___Yes ___No ___No Opinion

6. In your opinion, how can we improve the special program that your child is enrolled in (speech, hearing, or vision)?

7. If you have any other comments or concerns for our consideration please share them with us. And thank you for taking time to complete and return this sheet, by January 20, 1978, if possible.

RAG:khp

Enclosure

Specific results of questionnaires to
Parents - 62 responses total

Parents who participated in the IEP conferences - 34 responses

1. Generally, are you satisfied with the special program that your child is receiving?

33 Yes

0 No

1 No response

"It helped him alot."

"I wish it would have started earlier."

"It's terrific."

"My son has improved since he started the program."

"(Therapist) is doing wonders with my son."

2. Were you given the opportunity to meet the special teacher and discuss your child's program?

34 Yes

0 No

3. If you were involved in the program, were you satisfied with the conference?

30 Yes

0 No

4 Not involved

"Parents should be informed in projects."

"She really was informative and let me know all she plans."

"(Therapist) is doing a great job and I believe my son likes his speech (class) better than anything else in school."

"(Therapist) was very thorough in her presentation of the program."

4. Do you feel that (our procedure) is a good procedure to continue?

33 Yes

1 No

"It helps the parent understand."

"Too much paperwork for specialists to file."

"Alot of paperwork is wasted fro the procedure."

5. Do you feel that our new procedure will increase the child's progress?

30 Yes

3 No

1 No opinion

6. In your opinion, how can we improve the special program that your child is enrolled in?

"It is excellent as is."

"I really wouldn't know any way to improve the program."

"I wish the red tape and paper could be shortened so that the program could have started earlier in the year."

"Send home practice work."

"Send home extra work."

"Have more parent involvement by having activity they can help with at home."

"So far you are doing a swell job."

7. Other comments:

"We are quite pleased with the program."

"I'm very glad for any extra help he receives."

"The program should start when school starts."

"I think a phone call should be sufficient for the parent permission."

"The child should be made to realize that this program is as important as his other academic subjects."

Parents who did not participate in IEP conferences - 28 responses

1. Generally, are you satisfied with the special education program that your child is receiving?

26 Yes

0 No

2 No response

"He seems to be speaking better."

"The speech program took entirely too long to get off the ground."

"I'm very impressed. I see improvement after only three instruction periods."

2. Were you given the opportunity to meet the special teacher and discuss your child's program?

24 Yes

3 No

1 No response

3. If you were involved in the program, were you satisfied with the conference?

9 Yes

1 No

17 Not involved

2 No response

"I did not feel I was qualified to plan my child's program."

"Our older son had a satisfactory experience in the speech program, so we left the planning to you."

"The pink sheets I received explained it well."

4. Do you feel that (our procedure) is a good procedure to continue?

25 Yes

0 No

3 No response

"If it delays the program something is wrong."

5. Do you feel that our new procedure will increase the child's progress?

18 Yes

3 No

5 No opinion

2 No response

"No more than our involvement in the past."

6. In your opinion, how can we improve the special program that your child is enrolled in?

"Cut the red tape?"

"I am satisfied with my child's speech classes."

"The quicker a child corrects a problem the easier it well be to pick up his other school work."

"I think the program's good and offers alot to the children."

"So far the speech program seems excellent."

"I think it is good just the way it is."

"I think it is OK the way it is."

"Have parents sit in on conferences while specialist is working with child."

7. Other comments:

"I feel under the new procedure you have more contact with the parents. Last year I had to ask for a conference to find out how he was doing."

"I feel the speech program in my children's school was not atarted as soon as it should have due to all this so called paperwork."

"I see no need to see or approve the written program as prepared by the special teacher. This paperwork could be eliminated.

"Parents need to know how to go about helping the child."

APPENDIX T

THE SUMMATIVE EVALUATION

Page

Sample questionnaire for District Administrators............ 405

Specific results of questionnaires to District Administrators.. 410

Sample questionnaire for Classroom Teachers................. 418

Specific results of the questionnaire to Classroom Teachers.. 423

Sample questionnaires for the Instructional Advisor.......... 431

Specific results of the questionnaire to the Instructional Advisor.................................. 434

Sample questionnaire for the I.E.P. Coordinator............. 436

Specific results of the questionnaire to the I.E.P. Coordinator.. 438

Sample questionnaire for the I.E.P. Implementors............ 440

Specific results of the questionnaires to the I.E.P. Implementors.. 443

Sample questionnaires for the itinerant special education personnel.................................. 447

Specific results of the questionnaire to the itinerant special education personnel.................... 451

Sample questionnaire for parents........................... 459

Specific results of the questionnaires to parents........... 461

Page

Example of negative parental interest........................ 467

Example of positive parental interest........................ 468

Frequency distribution of days required to process pupils into itinerant programs. (Raw data for Table 3)

September, October, November, 1977...................... 469
December, 1977; January, February, 1978................. 470
March, April, May, June, 1978............................ 471

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

TO: School Administrators

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Questionnaire on I.U. 20 Itinerant Special Education Programs

DATE: June 14, 1978

As you know, Public Law 94-142 is responsible for many changes in our special education programs. The itinerant speech, hearing and vision programs are included under this law as having full instructional program status (as opposed to being "related services") in Pennsylvania. In I.U. 20 we developed and implemented a new referral-enrollment-dismissal-tracking procedure that enables us to process over 2,000 pupils in our itinerant programs each year. This procedure was designed to maximize the instructional time in our itinerant special education programs my minimizing processing time, yet meeting the mandates of P.L. 94-142.

We would like to have your responses to our efforts so that we may measure our success and reassess our needs as we move toward the 1978-1979 school term. Will you kindly complete this questionnaire and return it at your earliest convenience before June 30, 1978.

Thank you for your cooperation in completing this questionnaire as well as for your cooperation during the 1977-1978 school term.

RAG:lab

Attachment

1. We eliminated screening of all second grade students in order to redirect greater efforts to starting instruction as soon as the P.L. 94-142 requirements of due process and Individual Education Programs (IEPs) were completed. Screening was made available on a teacher request basis. Do you see this as a positive move? ______YES ______NO

Comments: ____

____

____

2. We provided an appropriate evaluation of each case referred to the I.U. 20 itinerant special education programs and followed the evaluation with a report of the findings and the appropriate due process procedure, to the parents, and with a notification to the district of the status of each case referred. Did this satisfy the needs of the district personnel? ______YES ______NO

Comments: ____

____

____

3. Where pupils were found to be in need of an itinerant special education program, parent participation for IEP development was solicited by I.U. 20 personnel. Was this a satisfactory approach? ______YES ______NO

Comments: ____

____

____

4. In each case of a new entry, review or dismissal, we provide a local educational agent (LEA) so that the time of district principals, psychologists, counselors, teacher, etc,. would not be taxed, although such conferences are open to participation of district personnel. Do you find this to be an acceptable procedure? ______YES ______NO

Comments: ____

____

____

5. The program supervisor visited each district that responded to our offer to meet with district personnel to discuss the new procedure. We continue to be available to visit in person or to answer questions over the telephone. Staff available includes the program supervisor, the IEP coordinator, IEP implementors, the instructional advisor, and the therapists/teachers. Has this communication effort been satisfactory to district personnel?

______YES ______NO

Comments: ____

____

____

(Circle the number that applies)

6. From your knowledge of the procedure, do you feel that there was an improvement in the delivery of instruction in the itinerant programs this year?

0 1 2 3 4 5

no improvement — great improvement

7. We felt that the increased involvement with parents would result in greater interest in the special program and that this positive attitude would generalize to some extent to the regular educational setting. Did you see this occur?

0 1 2 3 4 5

no increase — great increase

8. Have you seen any improvement in pupils' personality that can be attributed to this new closer parent-school relationship?

0 1 2 3 4 5

no improvement — great improvement

9. Have you seen any improvement in pupils' social relationship that can be attributed to this new closer parent-school relationship?

0 1 2 3 4 5

no improvement — great improvement

10. Are you aware of a closer parent to special education teachers/therapist relationship that can be attributed to this new procedure?

0 1 2 3 4 5

no change — great improvement

Other factors (please list)

0 1 2 3 4 5
no improvement — great improvement

12. Other factors (please list)

0 1 2 3 4 5
no improvement — great improvement

13. Should the I.U. 20 itinerant program change the amount of district involvement?

Comments: ______________________________

0 1 2 | 3 4 5
decrease involvement — no change — increase involvement

14. Are you satisfied with the overall operation of the itinerant speech, hearing and vision programs.

______YES ______NO

15. What do you see as the programs' strongest feature?

16. What do you see as the programs' weakest feature?

17. Do you feel that our goal to maximize instructional time while meeting P.L. 94-142 mandates is being met through our new procedures? ______YES ______NO

Comments: ____

____

____

____

____

18. If there are any additional comments that you wish to share, please use the remaining space on this questionnaire. If you wish to discuss the program or the procedure in greater detail, please call me at (215) 759-7600 or (717) 992-4145. Again, thank you for your cooperation and understanding during this year of change.

Results of Questionnaires To District Administration

Fifty questionnaires were mailed to school administrators (Superintendents, Assistant Superintendents, Pupil Personnel Directors, and Principals). Sixteen responses were received, although some single returns represented numerous administrative responses collectively. Below is a summary of the responses.

1. We eliminated screening of all second grade students in order to redirect greater efforts to starting instruction as soon as the P.L. 94-142 requirements of due process and Individual Education Programs (IEPs) were completed. Screening was made available on a teacher request basis. Do you see this as a positive move?

14 (92.3%) Yes 1 (6.6%) No 1 (6.7%) No Response

Comments:

"I'm not sure I fully understand this procedure."

"As long as children with severe problems aren't missed at second grade level."

"Teacher, administrative request is much better than mass screening."

"Recommend that screening of all second grade students be resumed as soon as feasible."

"Because of an increased awareness on the part of teachers to detect need for possible speech correction, much time can be saved by screening only those students in question."

"No, I believe in early intervention, but poor speech habits that are due to immaturity are most apt to be in the early primary grades. If the difficulty still persists in second it is not developmental but is a speech problem requiring the help of a therapist.

2. We provided an appropriate evaluation of each case referred to the Intermediate Unit 20 itinerant special education programs and followed the evaluation with a report of the findings and the appropriate due process procedure, to the parents, and with a notification to the district of the status of each case referred. Did this satisfy the needs of the district personnel?

16 (100%) Yes 0 (0%) No

Comments:

"There were many delays in this process this year at both the LEA level and Intermediate Unit level. When completed this process is adequate."

"I have not had any complaints about vision or hearing, but teachers in two schools would have liked seeing the teachers get started earlier at the beginning of the year--paperwork slowed them down."

"Excellent time saver for the district."

"Once the evaluation was made and the need for speech correction determined, the method described has contributed to continuity and has prevented any oversight from occurring."

"Very Good!"

3. Where pupils were found to be in need of an itinerant special education program, parent participation for IEP development was solicited by Intermediate Unit personnel. Was this a satisfactory approach?

15 (93.8%) Yes 1 (6.3%) No

Comments:

"No, I do not feel there is enough effort put into getting parents involved in this process. Many parents were unaware of the IEPs. They needed greater awareness of this area."

"We feel that parent involvement served a valuable purpose and contributed to establish a working relationship between school and community because of the positive contact. Often contact between school and community is of a negative nature."

"Excellent."

4. In each case of a new entry, review or dismissal, we provide a local educational agent (LEA) so that the time of district principals,

psychologists, counselors, teacher, etc., would not be taxed, although such conferences are open to participation of district personnel. Do you find this to be an acceptable procedure?

15 (93.8%) Yes   1 (6.39%) No

Comments:

"No, I feel there should always be an LEA representative present since the LEA is ultimately responsible."

"Only when there is no question on the part of the home, school, and Intermediate Unit 20 personnel."

"We feel this is a good and productive way to proceed. District personnel may participate in unusual cases."

"Yes, mainly because district people are limited."

"Yes, however, one person from the district should be involved."

"Excellent!"

5. The program supervisor visited each district that responded to our offer to meet with district personnel to discuss the new procedure. We continue to be available to visit in person or to answer questions over the telephone. Staff available includes the program supervisor, the IEP coordinator, IEP implementors, the instructional advisor, and the therapists/teachers. Has this communication effort been satisfactory to district personnel?

16 (100%) Yes   0 (0%) No

Comments:

"In most cases the therapists' involvement has been sufficient."

"Open lines of communication are a very important part of the program between Intermediate Unit 20, school principal, and staff."

"Very satisfactory."

6. From your knowledge of the procedure, do you feel that there was an improvement in the delivery of instruction in the itinerant program this year?

0 (0%)	1 (6.3%)	0 (0%)	7 (43.8%)	7 (43.8%)	1 (6.3%)
0	1	2	3	4	5
no improvement					great improvement

Comment:

> "Yes, except for testing."
>
> "If enthusiasm on the part of all personnel counts, I can say yes."
>
> "Perhaps after IEP's are more familiar to all of us there will not be a lag in beginning instruction."

7. We felt that the increased involvement with parents would result in greater interest in the special program and that this positive attitude would generalize to some extent to the regular educational setting. Did you see this occur?

0 (0%)	1 (6.3%)	3 (18.8%)	8 (50.0%)	4 (25.0%)	0 (0%)
0 no increase	1	2	3	4	5 great increase

8. Have you seen any improvement in pupils' personality that can be attributed to this new closer parent-school relationship?

0 (0%)	1 (63%)	5 (31.3%)	9 (56.3%)	0 (0%)	1 (6.3%)
0 no improvement	1	2	3	4	5 great improvement

Comment: "Not perceptibly noticeable yet, but I am sure it will show in many ways."

9. Have you seen any improvement in pupils' social relationship that can be attributed to this new closer parent-school relationship?

0 (0%)	1 (6.3%)	5 (31.3%)	9 (56.3%)	0 (0%)	1 (6.3%)
0 no improvement	1	2	3	4	5 great improvement

10. Are you aware of a closer parent to special education teachers/therapist relationship that can be attributed to this new procedure?

0 (0%)	1 (6.3%)	2 (12.5%)	8 (50.0%)	3 (18.8%)	1 (6.3%)
0 no change	1	2	3	4	5 great improvement

1 (6.3%) No response to #10

11. Other factors: The new referral procedure allows for more district involvement and awareness of progression.

					1 (6.7%)
0	1	2	3	4	5
no improvement					

15 (93.8%) No response to #11.

12. Other factors (please list).

16 (100%) No response to #12.

13. Should the Intermediate Unit 20 itinerant program change the amount of district involvment?

Comments:

			11 (68.8%)	2 (12.5%)	2 (12.5%)
0	1	2	3	4	5
decrease involvement			no change		increase involvement

1 (6.3%) No response to #13.

Comments:

"I feel district personnel should play a greater part in formal evaluation of Intermediate Unit 20 staff."

"Only as stated in #4."

"District involvement should be increased when a student is returning to regular class."

"If additional services could be acquired."

"Recommend no change until one more year has been spent under current program."

14. Are you satisfied with the overall operation of the itinerant speech, hearing and vision programs.

15 (100%) Yes 0 (0%) No

Comments:

"Quite so."

"Very much so."

15. What do you see as the programs' strongest feature?

"A more cooperative effort between district and Intermediate Unit."

"Whoever the itinerant teacher happens to be determines the program."

"The program's content in meeting the needs of the children."

"Specialists--their knowledge and personality."

"A caring/involved Colonial Northampton Intermediate Unit Number 20 staff!"

"Very competent staff."

"Cases handled as expediantly as possible."

"The teachers are conscientious and apply themselves to the task."

"Sincere, dedicated, cooperative staff truly interested in pupil growth."

"The performance of our itinerant program teacher in speech."

"Increased instruction time."

"IEP's for the students."

"Compliance with P.L. 94-142."

"The corrective services provided to the student. Improvement in the student's self-image, and a feeling of worth."

"Helping children with their special problems, and having a one-to-one or small group relationship with students."

"Providing a service for the exceptional child who would not otherwise receive assistance. Certainly we would not have expertise of the specialists. This is extremely important."

"Highly qualified personnel who have genuine interest in their work with children."

16. What do you as the programs' weakest feature?

"Time element. Not enough time spent with each child."

"The age old problem--not enough time."

"Getting children placed in special programs; realizing that due process is necessary."

"The amount of time wasted in paperwork and referral time."

"There is some delay in provision of services to children whose parents are unresponsive or difficult to contact through normal channels."

"The necessary time lapse from referral to placement for instruction because of the due process requirement."

"Your teachers seem to lead a rather easy life--not so confining as that of a classroom teacher."

"No enough personnel to handle all children in need of services."

"Nothing really weak."

17. Do you feel that our goal to maximize instructional time while meeting P.L. 94-142 mandates is being met through our new procedures?

14 (87.5%) Yes   1 (6.3%) No

1 (6.3%) - "Somewhat, but not completely. Procedures have to be streamlined."

Comments:

"Yes, for the majority of the pupils."

18. If there are any additional comments that you wish to share, please use the remaining space on this questionnaire. If you wish to discuss the program or the procedure in greater detail, please call me at (215) 759-7600 or (717) 992-4145. Again, thank you for your cooperation and understanding during this year of change.

"I recommend one (1) instructional advisor for our district who would coordinate all Intermediate Unit activities with our district. This person would schedule all Intermediate Unit contact people and consultants as they were needed. Teams of resource people should be scheduled for the same days of the week so that it would be easier to hold meetings and reduce the waiting time for paper-passing."

"The ____________________ Area School District is very pleased with the services rendered to its pupils. We could use more people but realize this is not possible at this time. Communication between Intermediate Unit and district has improved, and is very satisfactory." Assistant to the Superintendent

"The procedure you have developed is a good one. The comment made in "16 (delay in services to children of unresponsive parents) is not a criticism of the progray or procedure; rather, it is an observation of something we have become aware of and, as a result will be able to deal with more effectively.

I would like to take this opportunity to express sincere appreciation for the many courtesies you have extended to me and others in our district throughout the year."

Director of Pupil Personnel

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

TO: Teachers

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: Questionnaire on I.U. 20 Itinerant Special Education Programs

DATE: June 14, 1978

As you know, Public Law 94-142 (Education for all Handicapped Children Act) is responsible for many changes in our special education programs. The itinerant speech, hearing and vision programs are included under this law as having full instructional program status (as opposed to being "related services") in Pennsylvania.

Because of the numerous pupils (over 2,000) involved in the I.U. 20 itinerant speech, hearing and vision programs, we developed and implemented a unique procedure that enables us to process these pupils into and out of the programs each year. This procedure was designed to maximize the instructional time in our itinerant special education programs by minimizing the processing time, yet meeting the mandates of P.L. 94-142.

You are one of 50 teachers in the Intermediate Unit who have been selected at random from a list of teachers who referred pupils to the itinerant programs during the 1977-1978 year. We would like to have your responses to our efforts so that we may measure our success and reassess our needs for 1978-1979. Will you please take the few minutes necessary to complete this questionnaire and return it in the enclosed envelope at your earliest convenience before June 30, 1978.

Thank you for your cooperation in completing this questionnaire as well as for your cooperation during the 1977-1978 school term.

RAG:lab

Attachment

1. We eliminated screening of all second grade students in order to redirect greater efforts to starting instruction as soon as the P.L. 94-142 requirements of due process and Individual Education Programs (IEPs) were completed. Screening was made available on a teacher request basis. Do you see this as a positive move? ______YES ______NO

Comments: ____

____

____

2. We provided an appropriate evaluation of each case referred to the I.U. 20 itinerant special education programs and followed the evaluation with a report of the findings and the appropriate due process procedure, to the parents, and with a notification to the district of the status of each case referred. Did this satisfy the needs of the district personnel? ______YES ______NO

Comments: ____

____

____

3. Where pupils were found to be in need of an itinerant special education program, parent participation for IEP development was solicited by I.U. 20 personnel. Was this a satisfactory approach? ______YES ______NO

Comments: ____

____

____

4. In each case of a new entry, review or dismissal, we provide a local educational agent (LEA) so that the time of district principals, psychologists, counselors, teacher, etc,. would not be taxed, although such conferences are open to participation of district personnel. Do you find this to be an acceptable procedure? ______YES ______NO

Comments: ____

____

____

The program supervisor visited each district that responded to our offer to meet with district personnel to discuss the new procedure. We continue to be available to visit in person or to answer questions over the telephone. Staff available includes the program supervisor, the IEP coordinator, IEP implementors, the instructional advisor, and the therapists/teachers. Has this communication effort been satisfactory to district personnel?

_____YES _____NO

Comments: ____

____

____

(Circle the number that applies)

6. From your knowledge of the procedure, do you feel that there was an improvement in the delivery of instruction in the itinerant programs this year?

0 1 2 3 4 5

no improvement — great improvement

7. We felt that the increased involvement with parents would result in greater interest in the special program and that this positive attitude would generalize to some extent to the regular educational setting. Did you see this occur?

0 1 2 3 4 5

no increase — great increase

8. Have you seen any improvement in pupils' personality that can be attributed to this new closer parent-school relationship?

0 1 2 3 4 5

no improvement — great improvement

9. Have you seen any improvement in pupils' social relationship that can be attributed to this new closer parent-school relationship?

0 1 2 3 4 5

no improvement — great improvement

10. Are you aware of a closer parent to special education teachers/therapist relationship that can be attributed to this new procedure?

0 1 2 3 4 5

no change — great improvement

Other factors (please list)

0 1 2 3 4 5
no improvement … great improvement

12. Other factors (please list)

0 1 2 3 4 5
no improvement … great improvement

13. Should the I.U. 20 itinerant program change the amount of district involvement?

Comments: ____________________

0 1 2 | 3 4 5
decrease involvement … no change … increase involvement

14. Are you satisfied with the overall operation of the itinerant speech, hearing and vision programs.

_____YES _____NO

15. What do you see as the programs' strongest feature?

16. What do you see as the programs' weakest feature?

17. Do you feel that our goal to maximize instructional time while meeting P.L. 94-142 mandates is being met through our new procedures? ______YES ______NO

Comments: ____

____

____

____

____

18. If there are any additional comments that you wish to share, please use the remaining space on this questionnaire. If you wish to discuss the program or the procedure in greater detail, please call me at (215) 759-7600 or (717) 992-4145. Again, thank you for your cooperation and understanding during this year of change.

Responses To The Questionnaire To Classroom Teachers

Fifty questionnaires were mailed to classroom teachers selected at random from the Intermediate Units' list of teachers. Twenty-three responses were received. Below is a summary of the responses.

1. We eliminated screening of all second grade students in order to redirect greater efforts to starting instruction as soon as the P.L. 94-142 requirements of due process and Individual Education Programs (IEPs) were completed. Screening was made available on a teacher request basis. Do you see this as a positive move?

20 (83.3%) Yes   1 (4.2%) No   3 (12.5%) No response to #1

Comments:

"Teachers see students in a different light, but sometimes we do not pick up some problems. Such as an /r/ problem the music teacher noted in my class."

"It allows the classroom teacher and itinerant to work hand in hand in noticing concerned areas, strengths, weaknesses of a child."

"Yes, most of my students were picked up and given services quite early in the year."

"It is a positive move as long as you have conscientious teachers who are constantly aware of the physical needs and faults of their children."

"This does not directly involve me, but it seems to me that after working with a child your itinerant teachers would be able to determine whether further instructions would be helpful."

"I feel that relying on the individual teachers is a real time saving move for therapists."

"Classroom teachers recognized a great many of the speech problems and referred them."

2. We provided an appropriate evaluation of each case referred to the Intermediate Unit 20 itinerant special education programs and

followed the evaluation with a report of the findings and the appropriate due process procedure, to the parents, and with a notification to the district of the status of each case referred. Did this satisfy the needs of the district personnel?

20 (83.3%) Yes   1 (4.2%) No   3 (12.5%) No response to #2

Comments:

"I am not aware of this. Did not see any records to this effect."

"I did not get a written report on my student (from the district)."

"A lot of paperwork is a problem getting the speech program going."

"I feel it takes entirely too long to get testing started after requests are made and even longer after testing is done. I also have two other children still waiting for testing since February. I think your program in this respect stinks."

3. Where pupils were found to be in need of an itinerant special education program, parent participation for IEP development was solicited by Intermediate Unit 20 personnel. Was this a satisfactory approach?

21 (87.5%) Yes   2 (8.3%) No   1 (4.2%) No response to #3

Comments:

"Yes, I feel that the special teacher could explain the technicalities much better than I."

"Most of our parents (low socio-economic background) however were unable to provide any input."

"The Intermediate Unit was the specialist working with the student and his needs. If any questions were asked of me, I would have to refer them to the specialist. A better system between Intermediate Unit/parent."

"I did not hear how these appointments went, but it was helpful to inform the parents that they and their children were being given special consideration."

"For myself and other teachers I know, we inform parents that they will be notified through the process."

"Was there real parent participation aside from home practice?"

"I had a nephew involved and found this satisfactory."

4. In each case of a new entry, review or dismissal, we provide a local educational agent (LEA) so that the time of district principals, psychologists, counselors, teacher, etc., would not be taxed, although such conferences are open to participation of district personnel. Do you find this to be an acceptable procedure?

21 (87.5%)Yes 1 (4.2%) No 2 (8.3%) No response to #4

Comments:

"There is still too much paperwork before a child can be accepted into a program."

"Yes, it allows for as much or as little involvement as is necessary."

"Good for speech. There is still too long a lag waiting for L.D. and emotional problems to be evaluated."

5. The program supervisor visited each district that responded to our offer to meet with district personnel to discuss the new procedure. We continue to be available to visit in person or to answer questions over the telephone. Staff available includes the program supervisor, the IEP coordinator, IEP implementors, the instructional advisor, and the therapists/teachers. Has this communication effort been satisfactory to district personnel?

21 (87.5% Yes 1 (4.2%) No 2 (8.3%) No response to #5

Comments:

"I believe communication from our district to our teachers pertaining to such help and assistance could be better, but I also feel a job description of each should be given to each teacher."

"I have seen these personnel in my building."

"Yes, although I wish a specific time could have been set aside for this."

"Very satisfactory."

6. From your knowledge of the procedure, do you feel that there was an improvement in the delivery of instruction in the itinerant programs this year?

2 (8.3%)	1 (4.2%)	1 (4.2%)	12 (50.0%)	3 (12.5%	2 (8.3%)
0	1	2	3	4	5
no improvement					great improvement

3 (12.5%) No response to #6.

Comments:

"I feel it is more organized."

"(I) was not here last year."

"I do not feel I was in an advantageous position to decide either way."

"About the same. (Therapist) works hard."

7. We felt that the increased involvement with parents would result in greater interest in the special program and that this positive attitude would generalize to some extent to the regular educational setting. Did you see this occur?

4 (16.6%)	4 (16.6%)	3 (12.5%)	5 (20.8%)	3 (12.5%)	1 (4.2%)
0	1	2	3	4	5
no increase					great increase

4 (16.7%) No response to #7

Comments:

"With my own IEP conference of visiting parents, I see a little more positive attitude."

8. Have you seen any improvement in pupils' personality that can be attributed to this new closer parent-school relationship?

6 (25.0%)	1 (4.2%)	3 (12.5%)	7 (29.2%)	4 (16.7%)	1 (4.2%)
0	1	2	3	4	5
no Improvement					great improvement

2 (8.3%) No response to #8

9. Have you seen any improvement in pupils' social relationship that can be attributed to this new closer parent-school relationship?

6 (25.0%)	2 (8.3%)	3 (12.5%)	9 (37.5%)	0 (0%)	1 (4.2%)
0	1	2	3	4	5
no improvement					great improvement

3 (12.5%) No response to #9.

Comments:

"I have always felt that a close parent relationship is advantageous in pupils social relationships."

10. Are you aware of a closer parent to special education teachers/ therapist relationship that can be attributed to this new procedure?

4 (16.6%)	0 (0%)	2 (8.3%)	5 (20.8%)	6 (25.0%)	2 (8.3%)
0	1	2	3	4	5
no change					great improvement

5 (20.8%) No response to #10.

Comments:

"Yes!"

11. Other factors (please list):

"Visits and contacts as follow-ups with helpful classroom hints to be used by the classroom teacher were supplied on an informal basis to help aid the student in a large group setting."

0 (0%)	0 (0%)	0 (0%)	0 (0%)	1 (4.2%)	0 (0%)
0	1	2	3	4	5
no improvement					great improvement

23 (95.8%) No response to #11.

12. Other factors (please list):

24 (100%) No response to #12.

13. Should the Intermediate Unit 20 itinerant program change the amount of district involvement?

Comments:

			9 (37.5%)		
0 (0%)	0 (0%)	2 (8.3%)	0 (0%)	7 (29.2%)	2 (8.3%)
0	1	2	3	4	5
decrease involvement			no change		increase involvement

"More contact with the classroom teacher about what is going on."

"Perhaps we could base one of our in-service days on this Special Education Program. Some of your personnel might be interested in explaining just what their job entails."

"Yes, more time/week/child should be examined. Those children with severe problems need more help."

"A better teacher, IEP Implementor association in working with the child in the normal classroom."

"I realize it means more time, but children are very improtant and district administration should be made to realize that teachers are for people (children and parents) not appearance--how it looks."

14. Are you satisfied with the overall operation of the itinerant speech, hearing and vision programs.

21 (87.5%) Yes   1 (4.2%) No   2 (8.3%) No response to #14

15. What do you see as the programs' strongest feature?

"The program is only as strong as the instructor. At present we have a very capable one."

"One-to-one (therapist/teacher: pupil)."

"Operation on a one-to-one basis where a child is not inhibited from telling you his or her areas that need strengthening."

"Provides individual and small group attention to speech and hearing problems."

"The people are great."

"The teachers."

"Effective teaching."

"The teachers."

"Regular weekly sessions with the special teacher. Good rapport with the teacher!"

"The dedication and very real understanding of kids and their problems by the staff."

"I was pleased with the vision program. Communication was very good between teacher and vision staff. Every effort was made to help my pupil to the fullest extent."

"The teacher care and concern for each individual student. They work so hard with each and everyone in their program."

"The speech "teacher" serving our school provided us with very satisfactory service. Her work with pupils, personality, relationship to the building staff."

"________ (Therapist) had a nice working relationship with my student."

"I am involved in the speech program and I feel (therapist) does a superb job. I have seen such growth in the children she worked with.

"The program helps the child who wouldn't get the extra help in the classroom."

"Our speech program seems adequate."

"The hearing screening seems good too."

"Parents are much more aware of the specific program their child is receiving."

"Intermediate Unit Staff is very willing to work on skills that directly relate to those that the classroom teacher is working on."

16. What do you see as the programs' weakest feature?

"Communication to district administration then to teachers."

"Overloading of personnel. Too many schools for one instructor. It would be great to see sessions take place 2 or 3 times a week instead of once."

"Scheduling of her time, I feel that she could be better organized."

"Not enough time with severe cases."

"The time for each child is not really enough."

"Limited time available, especially to more serious needs of some children."

"Time allotment."

"Sometimes it seems your personnel have to move from building to building too often."

"Lack of physical facilities at the school."

"Letterheads and titles such as special education and Intermediate Unit."

"There is too much paperwork. When a child is referred to the program, too much time passed before the child is involved in the program."

"Evaluation procedures and teacher/parent conferences on such."

"I liked it better when we could have pupils involved in speech and hearing without so much time loss due to paperwork."

"Delay in child-teacher involvement."

"None."

17. Do you feel that our goal to maximize instructional time while meeting P.L. 94-142 mandates is being met through our new procedures?

17 (70.8%) Yes   1 (4.2%) No   6 (25.0%) No response to #17

Comments:

"I'm not aware of your instructional time."

"Wherever red tape can be eliminated it should be."

"Too much time wasted in the beginning of the year before program begins."

"I don't feel I know enough about what is going on."

"I don't see any change."

"It is probably being met, but your people are spread too thin, you need more help."

"Your people are irregular--they seem to be running to meetings or workshops and child time is not made up."

"A fine job is being done with available personnel. However, it is unfortunate that each instructor is unable to have fewer schools."

18. If there are any additional comments that you wish to share, please use the remaining space on this questionnaire. If you wish to discuss the program or the procedure in greater detail, please call me at (215) 759-7600 or (717) 992-4145. Again, thank you for your cooperation and understanding during this year of change.

"Maybe a workshop on your procedures would be good in each district."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P.O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: End of Year Questionnaire

DATE: June 14, 1978

So that we may measure our success of the 1977-1978 school term and determine our needs for the future, we would like you to share your thoughts regarding our procedures and program direction in the itinerant programs. Please complete this questionnaire and return it at your earliest convenience before June 19, 1978. Thank you for your cooperation.

1. Generally, do you feel that the new procedures implemented in the itinerant special education programs in the 1977-1978 school year are meeting the mandates of P.L. 94-142? ______YES ______NO

2. Are there any exceptions to #1? ______YES ______NO

   Comments: ____

   ____

   ____

3. Do you feel that the IEP implementation for itinerant programs were provided with adequate and appropriate direction and support for their task? ______YES ______NO

4. By the end of the year, what reaction did the district personnel convey to you regarding our itinerant program operation?

   0 1 2 3 4 5
   negative positive

5. How can this be improved?

   ____

   ____

   ____

   ____

   ____

6. If you experienced parent reaction to the itinerant program, please comment.

7. What were some of the positive aspects of our new procedures that you observed with the itinerant staff members?

8. What were some of the negative aspects of our new procedures that you observed with the itinerant staff members?

9. How can we improve our itinerant programs in the future in terms of streamlining our enrollment and dismissal procedures, improving the tracking procedure, and providing maximum instructional time for pupils in instructional programs, while meeting the mandates of P.L. 94-142?

10. If there are any other observations that you wish to share, please do so. Thank you for your attention to this questionnaire.

Response To Questionnaire To Instructional Advisor

A questionnaire was given to the Instructional Advisor of the Itinerant Programs. Below are the responses to this questionnaire.

1. Generally, do you feel that the new procedures implemented in the itinerant special education programs in the 1977-1978 school year are meeting the mandates of P.L. 94-142?

   ☒ YES ☐ NO

2. Are there any exceptions to #1?

   ☐ YES ☒ NO

3. Do you feel that the IEP implementation for itinerant programs were provided with adequate and appropriate direction and support for their task?

   ☒ YES ☐ NO

4. By the end of the year, what reaction did the district personnel convey to you regarding our itinerant program operation?

   0 1 2 3 [✓ 4] 5

   negative — positive

5. How can this be improved?

   "By continuing your PR work with regards to what they can do within their own districts to speed up the referral porcess. Your suggestions to them were helpful as they did not have an overview of the referral process and where problem areas were likely to be."

6. If you experienced parent reaction to the itinerant program, please comment."

   "The itinerant programs enjoy good press for the most part."

7. What were some of the positive aspects of our new procedures that you observed with the itinerant staff members?

   "Several commented that they are now giving better therapy and that they are zeroing in on specific areas right away."

8. What were some of the negative aspects of our new procedures that you observed with the itinerant staff members?

   "Increased paperwork. When one takes a look at the overall procedure and the law, it quickly becomes apparent that the steps and guidelines you've devised and implemented are great savers of time and energy. Let's face it, some people will always complain, no matter what."

9. How can we improve our itinerant programs in the future in terms of streamlining our enrollment and dismissal procedures, improving the tracking procedure, and providing maximum instructional time for pupils in instructional programs, while meeting the mandates of P.L. 94-142?

"As for now I can see no other way of doing this complicated paperwork. If left to the individual therapists and teachers the whole system would be working in 33 different directions. Your present system is needed and does the job."

10. If there are any other observations that you wish to share, please do so. Thank you for your attention to this questionnaire.

(No additional comments).

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: End-Of-Year Questionnaire

DATE: June 7, 1978

So that we may measure our success of the 1977-1978 school term and determine our needs for the future we would like you to share your thoughts regarding our procedures and program directions in the itinerant programs. Please complete the questionnaire and return it at your earliest convenience, before June 19, 1978. Thank you for your cooperation.

1. Generally, do you feel that the new procedures implemented in the itinerant special education programs in the 1977-1978 school year are meeting the mandates of P.L. 94-142? ___Yes ___No

2. Are there any exceptions to #1? ___Yes ___No
Comment:

3. Do you feel that the I.E.P. Implementors for the itinerant programs received adequate and appropriate directions and support for their task and efficiently moving the enrollment and dismissal procedure? ___Yes ___No

4. Are there any changes that you would like to see regarding the itinerant program I.E.P. Implementors function? ___Yes ___No

5. By the end of the year what reaction did district personnel convey regarding our itinerant program operation?

0 1 2 3 4 5
Negative Positive

6. How can this be improved?

7. If you experienced parent reaction to the itinerant program, please comment.

8. What suggestions do you have for improving our itinerant programs in the future in terms of streamlining our enrollment and dismissal procedures, improving the tracking procedure, and providing maximum instructional time for pupils in instructional programs, while meeting the mandates of P.L. 94-142?

9. If there are any other observations that you wish to share, please do so. Thank you for your attention to this questionnaire.

Responses To Questionnaire To The IEP Coordinator

A questionnaire was given to the Intermediate Unit 20 IEP coordinator. Below is a summary of the responses to that questionnaire.

1. Generally do you feel that the new procedures implemented in the itinerant special education programs in the 1977-1978 school year are meeting the mandates of P.L. 94-142?
   X YES ___ NO

2. Are there any exceptions to #1?
   ___ YES X NO

   Comment:

3. Do you feel that the IEP Implementors for the itinerant programs received adequate and appropriate directions and support for their task and efficiently moving the enrollment and dismissal procedure?
   X YES ___ NO

4. Are there any changes that you would like to see regarding the itinerant program IEP Implementors function?
   X YES ___ NO

5. By the end of the year what reaction did district personnel convey regarding our itinerant program operation?

   0 1 2 3 [✓ 4] 5
   Negative — Positive

6. How can this be improved?

   "Eliminate districts."

7. If you experienced parent reaction to the itinerant program, please comment.

   "Was all positive."

8. What suggestions do you have for improving our itinerant programs in the future in terms of streamlining our enrollment and dismissal procedures, improving the tracking procedure, and providing maximum instructional time for pupils in instructional programs, while meeting the mandates of P.L. 94-142?

"None at present--your enrollment and dismissal procedures are fine except in coordination with special class pupils."

9. If there are any other observations that you wish to share, please do so. Thank you for your attention to this questionnaire.

(No additional comments).

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: End-Of-The-Year Questionnaire

DATE: June 7, 1978

So that we may measure our success of the 1977-1978 school term and determine our needs for the future we would like you to share your thoughts regarding our new procedures and program direction in the itinerant programs. Please complete this questionnaire and return it at your earliest convenience before June 19, 1978. Thank you for your cooperation.

1. Generally, have you been satisfied with the procedure that we implemented in the itinerant programs in the 1977-1978 school term? ___Yes ___No

2. Do you feel that there is more pupil progress in the itinerant programs this year with more parental involvement? ___Yes ___No

3. Have new referrals received at least two diagnostic tests prior to a decision being made for enrollment in an itinerant program, as required by 94-142? ___Yes ___No

4. Have parents been invited to participate in the individual educational program planning conferences? ___Yes ___No

5. How many IEP conferences have been held on all pupils who have entered, dismissed, or had a program review this year? ____________

6. Do you feel that you received adequate an appropriate support for your job as implementor? ___Yes ___No

7. Do you feel that the itinerant staff received adequate and appropriate support from the supervisor and the IEP Coordinator ? ___Yes ___No

8. Do you feel that the staff tended to over program their cases in this first year? ___Yes ___No

9. Do you feel that the staff tended to under program their cases in this first year? ___Yes ___No

10. What kind of reaction did district personnel convey to you regarding our itinerant program.

0 1 2 3 4 5

negative positive

11. How can this be improved?

12. Approximately how long does it now take from referral to enrollment in an itinerant program? ____days.

If you indicated more than 30 days, how can this be reduced to 30 days?

13. What were some of the positive aspects of your involvement with the parents?

14. What were some of the positive aspects of your involvement with the itinerant staff?

15. What were some of the negative aspects of your involvement with parents?

16. What were some of the negative aspects of your involvement with the itinerant staff?

17. How can we improve our itinerant program in the future in terms of involving maximum time in therapy, improved instruction and, ultimately in a higher dismissal rate?

18. If there are any other observations that you wish to share, please do so. Thank you for your concern to this request.

Responses To The Questionnaire To The IEP Implementors In The Itinerant Programs

A questionnaire was given to each of the two IEP Implementors in the itinerant programs. Below is a summary of their responses of this questionnaire.

1. Generally, have you been satisfied with the procedure that we implemented in the itinerant programs in the 1977-1978 school term?
   2 YES 0 NO
2. Do you feel that there is more pupil progress in the itinerant programs this year with more parental involvement?
   2 YES 0 NO
3. Have new referrals received at least two diagnostic tests prior to a decision being made for enrollment in an itinerant program, as required by 94-142?
   2 YES 0 NO
4. Have parents been invited to participate in the individual educational program planning conferences?
   2 YES 0 NO
5. How many IEP conferences have been held on all pupils who have entered, dismissed, or had a program review this year?
   1329 plus joint classroom-special education conferences
6. Do you feel that you received adequate an appropriate support for your job as implementor?
   2 YES 0 NO
7. Do you feel that the itinerant staff received adequate and appropriate support from the supervisor and the IEP Coordinator?
   2 YES 0 NO
8. Do you feel that the staff tended to over program their cases in this first year?
   2 YES 0 NO

9. Do you feel that the staff tended to under program their cases in this first year?

0 YES 2 NO

10. What kind of reaction did district personnel convey to you regarding our itinerant program.

2 (100%)
0 1 2 3 4 5
negative positive

11. How can this be improved?

"Continued PR work--educating and informing the districts of procedures."

"The beginning of the year was difficult in some areas because of the lack of district understanding. On the whole, the districts have seemed pleased with itinerant programs. My only suggestion is to continue to help districts be informed--with a lot of repetition. Keep stressing evaluation as top priority--this helped this year."

12. Approximately how long does it now take from referral to enrollment in an itinerant program? 30 days
30 days or less.

If you indicated more than 30 days, how can this be reduced to 30 days?

Comments:

"In some cases with the battery of diagnostics needed and 14 days waiting period for return of the parent letter, 30 days can pass quickly."

"Quicker response by the district (would help).

"Quick check by secretary of all Action Requests for the day--place this as top priority."

13. What were some of the positive aspects of your involvement with the parents?

"Greater knowledge gained (by parents).

"Referrals to other agencies or other personnel within their educational system."

"It has been a very good year for me, and I am quite happy that I took the position. I felt proud to be working with the itinerant staffs.--they are a good group of mostly very dedicated individuals. I never had to fear embarassment going into a planning conference or major staffing--everyone was always well prepared and 'professionally sound' in their contributions. Please 'reinforce' your staffs for a job well done--they certainly deserve it."

14. What were some of the negative aspects of your involvement with parents?

"Complaints of red tape, wording of the parent letter, some parents felt they were being pressured."

"Many parents were concerned needlessly due to all of the 'contacts'; however, I think some attitudes changed after some of the law and procedures were explained. I think we need to continually explain and help parents to understand that we have mutual interests--the best education for their children. Too often parents mistake professionals as a threat instead of a source of help."

15. What were some of the negative aspects of your involvement with the itinerant staff?

"Too much time taken for therapy."

"Too much paperwork."

"Difficulty in contacting parents."

"Constant changes."

"The amount of paperwork was overwhelming for almost everyone."

"Greater understanding of where the child is coming from, through better diagnostics. Increase in parent understanding of child's problem; parents actually understood and learned how to work with children at home; parents are 'learning how' to ask questions about the programs. Many parents expressed positive approval and thanks for interest and time of professionals."

16. What were some of the positive aspects of your involvement with the itinerant staff?

"Sharing of ideas, types of testing and therapy to be used."

"The itinerants did a great job this year. They accepted the task-all IEPs seem appropriate, and most seem to be of good quality. The parent contacts have been good. People have planned reviews well, "booked" conference times ahead, and eliminated pure panic and chaos. All itinerants have been extremely cooperative. Most people have realized some positive aspects of the program and have 'admitted' these reactions (which is difficult when you've previously geared your mind not to accept a program). Procedures were followed well, all in all."

17. How can we improve our itinerant program in the future in terms of involving maximum time in therapy, improved instruction and, ultimately in a higher dismissal rate?

"Stress the importance of scheduling those with real needs--remembering developmental norms."

"In service aimed at diagnostic procedures. I feel that the experience gained from this year will help in all these areas. We now have a fairly 'smooth system'--next year will begin to reap the benefits."

18. If there are any other observations that you wish to share, please do so. Thank you for your concern to this request.

"The itinerant staff appears to be disturbed about the lack or weak link in communication between themselves and the classroom implementors when re-evaluations are concerned."

"Due process - might there be a system devised whereby the IU could send out or assist districts in expediting the issuing of the due process?"

"Tracking system - suggest a (similar) tracking system for classroom teachers (of special education)."

"I think that our major concern has to be directed to the coordinator of classroom programs with itinerant programs. My personal solution to this would be to put the entire I.U., all programs, on a tracking system like ours. The itinerant process is great and working very well; as a result, when a 'joint case' (involving itinerant programming and full time special education placement) comes up and the structure is lost in procedures. People become frustrated and rightly so."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Itinerant Personnel

FROM: Robert A. Green

SUBJECT: Attached Questionnaire

DATE: May 30, 1978

Please answer the items on the attached report/questionnaire keeping in mind that the procedure we are using brings us into compliance with the Pennsylvania Special Education Plan and the mandates of Federal Law 94-142.

The form should be returned at your earliest convenience, but not later than June 9, 1978.

Thank you for your cooperation during this trying year. Your efforts are truly appreciated.

RAG:khp

Attached

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO:

FROM: Robert A. Green

SUBJECT: End-Of-Year Report/Questionnaire

DATE: May 30, 1978

Please complete this report and return it to me by June 9, 1978.

I. A. The Total number* of pupils in your itinerant program throughout the entire 1977-1978 school term was:

*Include those dismissed during the year............ ______

B. The number of pupils dismissed during 1977-1978...... ______

C. The number of pupils ready for dismissal............ ______

D. The approximate percentage of parents/guardians that were involved in I.E.P. Planning and/or active involvement in the pupils' progress.................. ______%

II. Please list the numbers of cases from I. as they fit over the spectrum, below.

______	______	______	______	______
minimal progress	1/3 completion of program or "fair progress"	2/3 completion of program or "good progress"	completion of program/ready for dismissal (I.C)	dismissed. (I.B)

II. A. Please list the screening tests/techniques that you utilize.

1. ____________________
2. ____________________
3. ____________________
4. ____________________
5. ____________________
6. ____________________
7. ____________________
8. ____________________
9. ____________________
10. ____________________

B. Please list the evaluation tests/techniques that you utilize.

1. ____________________
2. ____________________
3. ____________________
4. ____________________
5. ____________________
6. ____________________
7. ____________________
8. ____________________
9. ____________________
10. ____________________
11. ____________________
12. ____________________

IV. (Circle Yes or No) considering that this was the first year under 94-142 and IEP's:

- Do you feel that you had adequate background information and in-service to prepare you for our new procedures?	YES	NO
- Do you feel that you had adequate and appropriate support?	YES	NO
- Did you tend to under program your cases?	YES	NO
- Did you tend to over program your cases?	YES	NO
- Did the IEP process help you organize your program?	YES	NO
- Did the IEPs help the pupils progress?	YES	NO
- Did the parent conferences help the pupils' progress?	YES	NO

V. Did you see any other factors related in any way to our new procedure? (Circle number that applies).

A. Improvement in instruction delivery of teacher/therapist.

0 1 2 3 4 5
no improvement — great improvement

B.	Improvement in over all school achievement by pupils.		0 no improvement	1	2	3	4	5 great improvement
C.	Improvement in pupils' personality.		0 no improvement	1	2	3	4	5 great improvement
D.	Improvement in pupils' social relationship.		0 no improvement	1	2	3	4	5 great improvement
E.	Improvement in relationships between parents and teacher/ therapist.		0 no improvement	1	2	3	4	5 great improvement
F.	Increase in parent participation over last year.	— Was not employed in I.U. 20 last year.	0 no increase	1	2	3 some increase	4	5 great increase
G.	Other (List)		0	1	2	3	4	5
H.	Other (List)		0	1	2	3	4	5
I.	Other (List)		0	1	2	3	4	5
J.	Other (List)		0	1	2	3	4	5

IV. Please share your comments regarding improving our system, beginning in September, 1978. Remember--94-142 and I.E.P.'s are in effect and will continue to be in effect. They require written notification to parents, permission to evaluate, etc., and we are currently in compliance with these directions.

Thank you for your efforts especially during this year. Have a happy and restful summer vacation.

RAG:khp

Responses to the Report/Questionnaire from Itinerant Personnel

A report/questionnaire was given to each itinerant special education teacher/therapist. Below is a summary of their responses to this report/questionnaires.

I. A. The total number of pupils in your itinerant program throughout the entire 1977-1978 school term was:

Speech Program	*1779	(1551)
Hearing Program	63	(63)
Vision Program	64	(64)
Total	*1906	(1678)

*Includes 228 pupils who received Speech Improvement lessons.

Note: Totals of pupils who received full "due process" procedures are listed in parentheses.

B. The number of pupils dismissed during 1977-1978.

Speech Program	218
Hearing Program	2
Vision Program	3
Total	223

C. The number of pupils ready for dismissal (to be processed).

Speech Program	218
Hearing Program	3
Vision Program	8
Total	229

D. The approximate percentage of parents/guardians that were involved in I.E.P. Planning and/or active involvement in the pupils' progress.

	Instructor with Highest Percentage	Instructor with Lowest Percentage	Staff Average
Speech Program.....	80%	2.6%	42.9%
Hearing Program....	66	10	44.4
Vision Program.....	60	4	45.3

II. Please list the numbers of cases from I, as they fit over the spectrum, below.

	Minimal Progress	1/3 completion of program	2/3 completion of program	Completion of program	dismissal
Speech	168 (10.8%)	448 (28.9%)	499 (32.2%)	218 (14.1%)	218 (14.1%)
Hearing	9 (14.3%)	13 (20.6%)	36 (57.1%)	3 (4.8%)	2 (3.2%)
Vision	11 (17.2%)	16 (25.0%)	26 (40.6%)	8 (12.5%)	3 (4.7%)
Total	183 (10.9%)	473 (28.2%)	560 (33.4%)	229 (13.7%)	223 (13.3%)

III. Please list the screening tests/techniques that you utilized.

Speech:

1. Informal conversation (spontaneous speech, Pledge to the Flag, alphabet)
2. Picture naming, or reading.
3. Sentence repetition.
4. Bryngleson-Glaspey Articulation Test.
5. Peabody Picture Vocabulary Test.
6. Michigan Picture Inventory.
7. Northwestern Syntax Screening Test.
8. Color/Shape cards.
9. Templin-Darley Articulation Screening Test.
10. McDonald Screening Deep Test.
11. Boehm Test of Basic Concepts.
12. Henja Developmental Articulation Test.
13. Screening Test for Auditory Comprehension of Language (STACL).
14. Therapist-made checklists.
15. Oral-peripheral Examination.
16. Discussion with teachers/observations of pupils in class.
17. Pre-school Language Scale.

Hearing (in addition to the speech tests, above):

1. Pure tone audiometry (in conjunction with the nurse's tests).
2. Impedance Audiometry.
3. Discussion with teacher/observation of pupil.

Vision:

1. Keystone Telebinocular Test.
2. Rader Visual Acuity Screening Chart.
3. Snellen Charts.
4. Titmus Vision Screening.
5. Discussion with teacher/observation of pupil.

B. Please list the evaluation tests/techniques that you utilize.

Speech:

1. Photo Articulation Test.
2. Templin-Darley Test of Articulation.
3. Arizona Articulation Proficiency Scale.
4. Bryngelson-Glaspey Articulation Test.
5. Goldman-Fristoe Test of Articulation.
6. Peabody Pictrue Vocabulary Test.
7. Michigan Picture-Language Inventory.
8. Token Test.
9. Utah Test of Language Development.
10. Boehm Test of Basic Concepts.
11. Carrow Auditory Comprehension of Language (CACL).
12. Carrow Elicited Language Inventory (CELI).
13. Illinois Test of Psycholinguistic Ability (ITPA).
14. Northwestern Syntax Screening Test.
15. Placement Test for Monterey Language Program (PCLT).
16. Wepman Auditory Discrimination Test.
17. Detroit Test of Auditory Memory.
18. Mayo Clinic Test for Speech Apraxia and Oral Apraxia.
19. Washington Auditory Discrimination Test.
20. Goldman-Fristoe-Woodcock Auditory Discrimination Test.
21. Preschool Language Scale.
22. Oral-peripheral examination.
23. Timed Reading and Conversation Sample (counting non-fluencies).
24. Sound Production Sheets - Test developed by staff member.
25. Receptive-Expressive-Phonetic (REP) Developmental Scale.
26. Conversational Speech Sample.
27. Review of reading test scores of the pupil.
28. Discussion with teacher/observation of pupil.
29. Review of pertainent reports from external agencies.

Hearing (in addition to the speech tests, above):

1. Peabody Picture Vocabulary Test.
2. Craig Lipreading Test.
3. Slosson Intelligence Test for Children and Adults.
4. Key Math Test.
5. Pure tone audiometry.
6. Impedance audiometry.
7. Review of school work and standardized test scores.

Vision:

1. Titmus Vision Test.
2. Keystone Telebinocular Test.
3. Rader Visual Acuity Screening Chart.
4. Dvorine Pseudo-Isochromatic Plates.
5. Barraga Visual Efficiency Scale.

6. Slosson Intelligence Test for Children and Adults.
7. Perkins Visual Assessment Kit.
8. Student performance of visual motor skills.
9. Knowledge of concepts: indoors, outdoord, and environmental.
10. Performance of "Near" and "Distance" vision tasks, static and dynamic.
11. Use of systematic searching techniques; situational and environmental.
12. Environmental travel and route selection.
13. Discussion with the teacher/observation of pupils.
14. Review of pertainent reports from external agencies.

IV. Considering that this year was the first year under P.L. 94-142 and IEPs:

- Do you feel that you had adequate background information and in-service to prepare you for our new procedures?

Speech	22 Yes	0 No
Hearing	6	0
Vision	5	0
Total	33 Yes	0 No

- Do you feel that you had adequate and appropriate support?

Speech	22 Yes	0 No
Hearing	6	0
Vision	5	0
Total	33 Yes	0 No

- Did you tend to under program your cases?

Speech	1 Yes	21 No
Hearing	0	6
Vision	0	5
Total	1 Yes	32 No

- Did you tend to over program your cases?

Speech	17 Yes	5 No
Hearing	5	1
Vision	3	2
Total	25 Yes	8 No

- Did the IEP process help you organize your program?

Speech	16 Yes	6 No
Hearing	6	0
Vision	3	2
Total	23 Yes	10 No

- Did the IEPs help the pupils progress?

Speech	7 Yes	15 No
Hearing	4	2
Vision	0	5
Total	11	21

- Did the parent conferences help the pupils progress?

Speech	12 Yes	10 No
Hearing	5	1
Vision	2	3
Total	19 Yes	14 No

V. Did you see any other factors related in any way to our new procedures?

A. Improvement in instruction delivery of therapist/teacher.

20	Speech	4 (20.0%)	3 (15.0%)	3 (15.0%)	8 (40.0%)	2 (10.0%)	0 (0%)
5	Hearing	0 (0.0%)	1 (20.0%)	3 (60.0%)	1 (20.0%)	0 (0.0%)	0 (0%)
5	Vision	1 (20.0%)	2 (40.0%)	2 (40.0%)	0 (0.0%)	0 (0.0%)	0 (0%)
33	Total	5 (16.7%)	6 (20.0%)	8 (26.7%)	9 (30.0%)	2 (6.7%)	0 (0%)
		0 no improvement	1	2	3	4	5 great improvement

B. Improvement in over all school achievement by pupils.

19	Speech	6 (31.6%)	2 (10.5%)	5 (26.3%)	6 (31.6%)	0 (0.0%)	0 (0%)
6	Hearing	0 (0.0%)	1 (16.7%)	4 (66.7%)	1 (16.7%)	0 (0.0%)	0 (0%)
5	Vision	1 (20.0%)	3 (60.0%)	0 (0.0%)	0 (0.0%)	1 (20.0%)	0 (0%)
30	Total	7 (23.3%)	6 (20.0%)	9 (30.0%)	7 (23.3%)	1 (3.3%)	0 (0%)
		0 no improvement	1	2	3	4	5 great improvement

C. Improvement in pupils' personality.

20	Speech	7 (35.0%)	4 (20.0%)	2 (10.0%)	5 (25.0%)	2 (10.0%)	0 (0%)
6	Hearing	2 (33.3%)	2 (33.3%)	2 (33.3%)	0 (0.0%)	0 (0.0%)	0 (0%)
5	Vision	4 (80.0%)	0 (0.0%)	0 (0.0%)	1 (20.0%)	0 (0.0%)	0 (0%)
31	Total	13 (41.9%)	6 (19.4%)	4 (12.9%)	6 (19.4%)	2 (6.4%)	0 (0%)
		0 no improvement	1	2	3	4	5 great improvement

D. Improvement in pupils' social relationships.

22	Speech	7 (31.8%)	6 (27.3%)	1 (4.5%)	2 (9.1%)	6 (27.3%)	0 (0%)
6	Hearing	2 (33.3%)	1 (16.7%)	3 (50.0%)	0 (0.0%)	0 (0.0%)	0 (0%)
5	Vision	4 (80.0%)	0 (0.0%)	0 (0.0%)	1 (20.0%)	0 (0.0%)	0 (0%)
33	Total	13 (39.4%)	7 (12.2%)	4 (12.1%)	3 (9.1%)	0 (0.0%)	0 (0%)
		0 no improvement	1	2	3	4	5 great improvement

E. Improvement in relationships between parents and teacher/ therapist.

19	Speech	3 (15.8%)	1 (5.3%)	2 (10.5%)	7 (36.8%)	4 (21.1%)	2 (10.1%)
5	Hearing	0 (0.0%)	0 (0.0%)	3 (60.0%)	2 (40.0%)	0 (0.0%)	0 (0%)
5	Vision	2 (40.0%)	1 (20.0%)	0 (0.0%)	2 (40.0%)	0 (0.0%)	0 (0%)
29	Total	5 (17.2%)	2 (6.9%)	5 (17.2%)	11 (37.9%)	4 (13.8%)	2 (6.9%)
		0 no improvement	1	2	3	4	5 great improvement

F. Increase in parent participation over last year.

20	Speech	5 (25.0%)	1 (5.0%)	1 (5.0%)	4 (20.0%)	5 (25.0%)	4 (20.0%)	0 (0%)
6	Hearing	1 (16.7%)	1 (16.7%)	2 (33.3%)	1 (16.7%)	1 (16.7%)	0 (0.0%)	0 (0%)
5	Vision	2 (40.0%)	2 (40.0%)	0 (0.0%)	1 (20.0%)	0 (0.0%)	0 (0.0%)	0 (0%)
31	Total	8 (25.8%)	4 (12.9%)	3 (9.7%)	6 (9.4%)	6 (19.4%)	4 (12.9%)	0 (0%)
		not employed in I.U.20 last year	0 no improvement	1	2	3	4	5 great improvement

G. Other: Required team staffings.

One vision teacher - rating 5, great improvement.

H. Other: Improvement in communications with district personnel.

One hearing therapist - rating 5, great improvement.

VI. Please share your comments regarding improving our system, beginning in September, 1978. Remember--94-142 and I.E.P.s are in effect and will continue to be in effect. They require written notification to paretns, permission to evaluate, etc., and we are currently in compliance with these directions.

Speech therapists' comments:

"I think it should be much easier in September with most of the conferences being covered from June to June."

"Basically it was a good year. A few kinks need to be worked out. My biggest headache was to find time to do I.E.P. related paperwork."

"The newly initiated system of written notification when due process is/is not received is a good one, in htat it eliminates multiple phone calls."

"Too much time is taken from therapy for conferences, etc., and I feel this hinders progress greatly."

"Help and direction from the speech IEP Implementors and Supervisor was more than adequate and both were given with much patience and understanding on the part of the givers."

"I feel there was a void or a breakdown in the program at the end of the year, after IEP planning conferences were held, IEPs were revised and recommendations were made. There was no immediate follow-up un case of special education(full-time class) pupils."

"Orientation and review of the law and all it entails, i.e. conferences and cancelling of therapy, to district personnel."

"It has been a good year for me. Thanks for your organization and support. Have a good summer."

"I think the biggest direction needs to come in coordinating I.U. personnel (in other programs) - to make sure we are given the same information and there is equality to carry out these procedures."

"There is no question in my mind that Speech-Hearing-Vision staffs are well prepared and knowledgeable about 94-142. It certainly is because of the quality of supervision and organization available to us. because we usually know what we are doing, however, seems to create some problems in tracking pupils who receive other I.U. services. Other I.U. personnel have a much more casual approach to the whole situation, yet seem to be functioning adequately. I wonder sometimes if we aren't over-committed.

Hearing therapists' comments:

"Some district and I.U. teachers seem to need further inservicing on I.E.P. procedures."

"Our system meets the letter of the law as stated in P.L. 94-142."

"Fifty percent of the parents were involved. Those students did better than students whose parents were not involved."

"I feel that the writing of the IEPs have helped me more than my students. It has made me more organized and has forced me to write down everything that was included in therapy."

"(There is now) more 'weight' behind our program (and greater) involvement of district personnel."

"Although IEPs initially took a great deal of time, I've found that I've saved time on daily lesson plans. Of course, I realize I'm dealing with a small number of students compared to other staffs."

Comments of teachers of the visually limited:

"I feel the I.U. is doing the best that can be done to make the best out of a bad thing. The I.U. should receive high grades for their effort."

"I would like to qualify some of the 'no improvement' responses. The IEPs have helped to formally organize the program in some ways. However, the goals and objectives were part of the teaching plans in the past. It is felt that during this year more time was spent in writing than direct parent contact. Hopefully some/most of the weak spots were taken care of."

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 Industrial Park Road
P. O. Box 179
Nazareth, Pennsylvania 18064

TO: Parents Of Pupils In Intermediate Unit Number 20 Speech, Hearing Or Vision Programs

FROM: Robert A. Green, Supervisor of Special Education

SUBJECT: End Of The Year Program Questionnaire

DATE: May 31, 1978

We are pleased to have your child enrolled in our part time instruction in the speech, hearing or vision program. We are trying continually to improve these programs. This year we began a new procedure that encouraged more parental participation in planning and instruction. To help us measure our success and determine our needs we would like to gather opinions from a random sample of parents of pupils in these programs.

Will you please complete this sheet and return it in the pre-stamped envelope at your earliest convenience before June 30, 1978. You need not identify yourself on this questionnaire. If you have specific concerns that you would like to discuss further, please feel free to telephone me at (215) 759-7600 or (717) 992-4145. Thank you for your cooperation.

1. Please judge your child's progress in the special program (speech, hearing or vision) during this school term. (Circle the rating that describes the progress best).

minimal progress	fair progress -or- 1/3 completion of program	good progress -or- 2/3 completion of program	excellent progress -or- completion of program - ready for dismissal

2. Are you satisfied with your child's progress in the special program this year? ___Yes ___No

3. Did you attend an Individual Education Program (IEP) planning conference during the year? ___Yes ___No

4. Were you satisfied with the information that you received at the planning conference? ___Yes ___No ___Did Not Attend

5. Did you have ideas or suggestions for the individual education program plan? ___Yes ___No ___Did Not Attend

6. Do you feel that increased parent involvement in the program has and/or will result in greater progress for the child? __Yes __No __Don't Know

Other outcomes have been suggested as a result of our new procedure of including encouraging greater parental involvement. Have you seen changes that may be due to this increased involvement, such as: (Circle appropriate rating).

	0	1	2	3	4	5
7. Improvement in overall achievement in school.	no improvement					great improvement
8. Improvement in attitude toward school	no improvement					great improvement
9. Improvement in the child's personality.	no improvement					great improvement
10. Improvement in social relationships (with teachers, relatives, friends, etc.).	no improvement					great improvement
11. Improvement in relationship between parent and teacher/therapist.	no improvement					great improvement

12. Other - Please list

13. We will appreciate any other comments that you may wish to share with us, including suggestions for further program improvement. Thank you for your opinions.

RAG:khp

Responses to the Questionnaires to Parents of Pupils in Intermediate Unit Number 20 Speech, Hearing, or Vision Programs

Two hundred questionnaires were mailed to parents selected at random from the tracking system files. Ninety four responses were received. Below is the summary of those responses.

1. Please judge your child's progress in the special program during this school term.

5 (5.3%)	11 (11.7%)	58 (61.7%)	15 (16.0%)
minimal progress	fair progress or 1/3 completion of the program	good progress or 2/3 completion of the program	excellent progress or completion of the program/ dismissal

5 (5.3%) No response

2. Are you satisfied with your child's progress in the special program this year?

81 (86.2%) Yes

9 (9.6%) No

4 (4.2%) No response

3. Did you attend an Individual Education Program (IEP) planning conference during the year?

52 (55.3%) Yes

41 (43.6%) No

1 (1.1%) No response

4. Were you satisfied with the information that you received at the planning conference?

52 (55.3%) Yes

3 (3.2%) No

38 (40.4%) Did not attend

1 (1.1%) No response

5. Did you have ideas or suggestions for the individual education program plan?

18 (19.1%) Yes

40 (42.6%) No

35 (37.2%) Did not attend

1 (1.1%) No response

6. Do you feel that increased parent involvement in the program has and/or will result in greater progress for the child?

60 (63.8%) Yes

10 (10.6%) No

24 (25.5%) Don't know

0 (0.0%) No response

Other outcomes have been suggested as a result of our new procedure of including encouraging greater parental involvement. Have you seen hcanges that may be due to this increased involvement, such as:

7. Improvement in overall achievement in school.

8 (8.5%)	5 (5.3%)	6 (6.4%)	25 (26.6%)	20 (21.3%)	18 (19.1%)
0 no improvement	1	2	3	4	5 great improvement

12 (12.8%) No response

8. Improvement in attitude toward school.

12 (12.8%)	5 (5.3%)	7 (7.4%)	18 (19.2%)	16 (17.0%)	26 (27.7%)
0 no improvement	1	2	3	4	5 great improvement

10 (10.6%) No response

9. Improvement in the child's personality.

7 (7.5%)	3 (3.2%)	5 (5.3%)	23 (24.5%)	21 (22.3%)	24 (25.5%)
0 no improvement	1	2	3	4	5 great improvement

11 (11.7%) No response

10. Improvement in social relationships (with teachers, relatives, friends, etc.).

9 (9.6%)	2 (2.1%)	6 (6.4%)	20 (21.3%)	23 (24.5%)	22 (23.4%)
0	1	2	3	4	5

12 (12.8%) No response

11. Improvement in relationship between parent and teacher/therapist.

6 (6.4%)	1 (1.1%)	3 (3.2%)	22 (23.4%)	18 (19.1%)	31 (33.0%)
0	1	2	3	4	5

13 (13.8%) No response

12. Other changes that may be due to increased parental involvement:

"Daughter sounds out her words a lot better than she did before - Son has more of an interest in school and attends more readily than before."

"Patrick likes to read now - he never did."

"Her attitude toward 'homework' and speech exercise was excellent as was her progress since its conception."

"My daughter has always been a good student and continues to be one. She is enthusiastic about speech class and practices on her own. She always tells me of her progress and is most pleased when she moves into another level of therapy."

13. We will appreciate any other comments that you may wish to share with us, including suggestions for further program improvement. Thank you for your opinions.

"I am very upset with the school and the speech program and I dislike calling our child a handicap. I feel the program has made her feel incompetent and self-conscious. I believe the speech is only temporary and something she will outgrow soon. When she knows a word and is called upon in class she refuses to say it because she will get embarrassed in front of everyone. Besides, how do you expect me to rate her when the teacher gives her an I in Language."

"I feel the program is a good one. I don't understand why it took so long to get Patrick started in the program this is why I did not ask for conference as I felt, he had already missed most of the year in speech classes and I did not want to hold the classes up any longer."

"There is a lack of communication between home and school. Parental involvement is needed but not to teach the child. There is a great need for more therapists for children in all areas."

"I was very impressed with the program and with my interview with the speech therapist. I was not able to get my son into the program until late in the year, but I feel he did quite well in it. I was a little disappointed in the fact that I had requested progress reports, and from the time of the initial interview, I heard nothing from the therapist, despite numerous meetings with the teacher. I know that if there had been more contact, even through notes, that my son would have done much better in school than he did."

"Please keep regular teachers informed concerning children's progress and work they are doing. Classroom teachers are not keeping up to date with the program of study."

"We are very pleased that all the people who are involved with our child keep us so well informed of his progress. They have not hesitated to call us when there is a problem. This makes it much easier for us to find the cause and to help try to remedy the situation. We want to thank everyone for their cooperation this year. We do believe we will see great progress from our child next year because of his new program."

"It would help reinforce the child to grade him on his report card in these special areas."

"I realize it may be my own fault for not being able to attend and participate with Michael, but I not only notice that Michael hasn't improved, but I feel his speech problem is getting worse."

"I have always been pleased with my child's progress in school, and I feel if she should need any improvement that you duely think necessary, you would take care of the steps to help her."

"I did not attend the IEP, however, I visited my child and therapist during a session and found it to be most interesting. Also, I could distinguish a 'good' or 'bad' sound at home when my child and I have conversations. I felt that this experience has made me more aware and could work with him."

"I am very sorry that I couldn't complete all the questions above. Richard has great potential and his relationship with the teachers is good. There is no excuse for me not being more involved with his education and I will try harder to be involved. I have no questions and as far as the teachers at Leiberts, I have all the faith in the world in them."

"My son likes (therapist) a lot. Considering htat he has missed a lot of sessions, I think he really did well."

"My two children were serviced by (therapist). She is a gentle, orderly person and I feel she accomplished much with my boys."

"I think my child really enjoys this class. I hope it continues."

"We are very pleased with the program as it was done this past year. Our child's speech has greatly improved and we are grateful. Thank you to all who worked hard to achieve this accomplishment."

"Our child was only involved in the speech therapy program, but we have seen a great improvement this past year."

"I am very pleased with my child's progress in the special program. I could easily rate it as excellent progress (but not ready for completion) for the short amount of time he was in the program. I do feel that this program is more improtant than some of the activities he attended in place of his usual Friday morning instruction."

"The program itself is very good."

"I know that this program has helped my child greatly. Thank you."

"Eventhough my son has a long way to go towards perfect enunciation, and diction, he certainly has improved his speech during the school year. I know he is pleased with his progress, and looks forward to extended speech services."

"I'm very pleased with the speech program."

"We feel the program was very good and the teacher excellent; both in teaching and planning with other teachers."

"I work with the Head Start Program and also on couple of

Bords (sic) and we do a hell good job then (sic) the whole Unit 20 would and could do for little children's (sic) at less we do beat around the bush like you people did. You people don't even have Guts to come to see su and talk to us. The only one I respect in Unitd (sic) #20 is (teacher) she did the best she could but the rest are just as good as a stum (sic) of a dead tree! If you don't like what I wrote and if you feel I Miss Juge (sic) you people you are realy (sic) wrong. They shoud (sic) do away with so call (sic) UNIT # 20 Program."

"All I have to say is 'Thank you, God,' for you Mr. Green and all of your beautiful angels of mercy! Keep up the good work, I don't know where our children would be without your help. Thanks for caring and sharing."

Mrs Patterson,

I do not have time to attend your stupid conference's. I have to go to Work everyday to keep my Bills paid and run my home and take Care of my kids, and if you don't like this, this just to Bad, And don't bother me again

[redacted]

4/11/78

June 3, 1978

Dear Mr. Green,

I had a conference with Mrs. Nassry and another young woman Wed., May 31st at Palmer School.

It was indeed a pleasure for me to meet with them. All avenues were explained to my understanding. I am completely aware and pleased with the course to be undertaken in Sept.

These two young women went well over the time allotted for such a conference and yet were extremely pleasant and very sincere.

Cooperation from Mrs Nassry throughout 6th grade has been more than 100%.

I am most grateful for Intermediate Unit #20 and the dedicated therapists I've had the pleasure of knowing.

Please tell them all, their efforts are not in vain. I, for one, am very thankful for their efforts and concern

Sincerely + Respectfully.

[redacted]

I. U. NUMBER 20
SPECIAL EDUCATION
RECEIVED
JUN 6 1978
INITIALS:
TO:

FREQUENCY DISTRIBUTION OF DAYS REQUIRED TO PROCESS PUPILS INTO ITINERANT PROGRAMS

September, October, November, 1977

N = 267

11	22	30	35	41	46	59	64	72	82	108
11	22	30	36	41	46	59	64	73	83	109
11	23	30	36	42	47	59	65	73	83	110
12	23	30	36	42	49	60	65	73	83	110
12	24	30	36	42	50	60	65	73	85	114
12	24	30	36	42	50	60	66	74	85	114
13	24	30	36	42	50	60	66	74	85	119
14	24	31	36	42	51	60	66	74	85	121
15	24	31	37	42	51	60	67	74	85	121
16	25	31	37	42	51	60	67	75	86	123
19	26	31	37	42	52	60	68	75	87	124
19	26	31	38	43	52	60	68	76	89	124
19	26	32	38	43	52	60	69	76	90	136
19	26	32	38	43	53	60	69	76	90	141
21	26	32	38	43	54	60	69	77	92	156
21	27	32	39	43	54	61	69	78	92	177
21	27	32	39	43	55	61	69	78	92	183
21	28	32	40	44	56	61	70	79	98	
22	28	33	40	44	56	62	70	79	98	
22	28	33	40	44	56	62	70	79	102	
22	28	34	40	45	56	62	70	79	102	
22	29	34	41	45	58	62	71	81	102	
22	29	34	41	45	58	63	72	81	102	
22	29	35	41	45	58	64	72	82	102	
22	29	35	41	45	58	64	72	82	108	

FREQUENCY DISTRIBUTION OF DAYS REQUIRED TO PROCESS PUPILS INTO ITINERANT PROGRAMS

December, 1977, January, February, 1978

N= 112

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FREQUENCY DISTRIBUTION OF DAYS REQUIRED TO PROCESS PUPILS INTO ITINERANT PROGRAMS

March, April, May, June, 1978

N = 49

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APPENDIX U

LETTERS FROM PRACTICUM OBSERVERS

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 INDUSTRIAL PARK ROAD • P. O. BOX 179 • NAZARETH, PENNSYLVANIA 18064 • (215) 759-7600

June 29, 1978

Director of Practicum
National Ed.D. Program
for Educational Leaders
Nova University
3301 College Avenue
Fort Lauderdale, FL 33314

Re: Robert A. Green

Dear Sir:

During the 1977-1978 school year the itinerant special education programs in Intermediate Unit Number 20 experienced unique changes. Public Law 94-142 (Education for All Handicapped Children Act) became effective and required a variety of assurances of proper due process of law to parents of pupils in need or thought to be in need of a special education program.

To effect changes of P.L. 94-142 in the itinerant program that involves 36 staff members who deal with a total of 2000 pupils and personnel in 13 school districts presented a need and a challenge. Mr. Robert Green met this need and by developing and implementing a project aimed at not only meeting the requirements of the law, but also improving the educational outcomes of the itinerant program through increased parental-teacher involvement. Although the initial orientation of the project began during the 1976-1977 school year with a number of in-service meetings, at the start of the 1977-1978 school year the project moved into full operation.

The need for such a project was evident and the outcomes of the project have been positive thus far. Numerous aspects of the project should be directly transferable to other programs that are attempting to provide a workable procedure to assure compliance with P.L. 94-142 and provide a valuable education to the special education pupils locally and throughout the country where administrators are attempting to implement the new law.

It is my observation that this project accomplished by Robert Green has been completed in a satisfactory and professional manner.

Sincerely yours,

Joseph Mickley Jr.

Dr. Joseph Mickley, Jr.
Supervisor of Special Education

JMJ:bl

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 INDUSTRIAL PARK ROAD • P. O. BOX 179 • NAZARETH, PENNSYLVANIA 18064 • (215) 759-7600

July 7, 1978

Director of Practicum
National Ed.D. Program
for Educational Leaders
Nova University
College Avenue
Fort Lauderdale, FL 33314

Dear Sir:

Mr. Robert A. Green, Supervisor of Special Education in Intermediate Unit Number 20 has the responsibility of supervising the itinerant speech, vision, and hearing programs. When Public Law 94-142 became effective at the start of the 1977-1978 school year, Mr. Green implemented a plan which he had developed to meet the requirements of the new law and capitalize on the parent involvement to increase the effectiveness of the program.

This project required a great amount of research of the requirements of the new law and a translation of these requirements into the actual procedures to be utilized with special education staff members, teachers, administrators, and parents in eleven school districts. This was accomplished through in-service programs throughout the school year. The results of the project.point to success. The procedure has features that will be considered for adaptation in other special education programs in Intermediate Unit Number 20. There is also the possibility of application of this project to other special education agencies who are searching for a unique way to meet the mandates of the law and provide improved programming for their pupils.

Sincerely yours,

Jack M. Superka

Jack M. Superka
Supervisor of Special Education

JMS:at

cc: Mr. Robert A. Green

COLONIAL NORTHAMPTON INTERMEDIATE UNIT NUMBER 20
299 INDUSTRIAL PARK ROAD • P. O. BOX 179 • NAZARETH, PENNSYLVANIA 18064 • (215) 759-7600

June 28, 1978

Director of Practicum
National Ed.D. Program for
Educational Leaders
Nova University
College Avenue
Fort Lauderdale, FL 33314

Dear Sir:

Robert A. Green, a Supervisor of Special Education in Intermediate Unit Number 20 has developed and implemented a procedure to maximize instructional time in the itinerant special education programs in the unit. This was ccomplished during the 1977-1978 school year and met the requirements of ublic Law 94-142 which became effective in that year.

s project was significant in that the itinerant programs involved approximately 2,000 pupils. Without a streamlined procedure, pupils would experience either extremely lengthy time period or requirements of P.L. 94-142 not being assured properly. With his procedure, Mr. Green has met the needs of the pupils and the new law.

The procedure with modifications, holds potential for the efficient processing of pupils into other special education programs in Intermediate Unit Number 20, as well as other educational settings outside our Intermediate Unit. Mr. Green's project has been an accomplishment.

Sincerely yours,

Dr. George R. Williams
Supervisor of Special Education

GRW:lab